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ONTARIO. LAWS, STATUTES, ETC.
1 2
Publications

Ontario

REVISED STATUTES

3

OF

ONTARIO, 1980

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED UNDER THE AUTHORITY OF THE STATUTES REVISION ACT, 1979

VOL. 6

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REVISED STATUTES OF ONTARIO, 1980

VOLUME 6

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CHAPTER 363

Operating Engineers Act

1. In this Act, Interpretation

1. "Board" means the Board of Examiners appointed for the purposes of this Act;

2. "boiler" means a pressure vessel that may be used at greater than atmospheric pressure,

   i. to generate or heat steam, or

   ii. to heat water to a temperature less than its boiling point at the maximum pressure within the vessel,

   and includes any pipe, fitting and other equipment attached thereto or used in connection therewith;

3. "brake horsepower" means the effective or useful horsepower developed by a prime mover as measured by a weigh scale and a brake applied to its driving shaft or by other means approved by the chief officer, and one brake horsepower is equivalent to 2,544 British thermal units per hour or to 0.02544 Therm-hours;

4. "certificate of qualification" means a subsisting certificate of qualification issued under this Act to an operating engineer or an operator;

5. "certificate of registration" means a subsisting certificate of registration issued under this Act for a plant;

6. "chief operating engineer" means an operating engineer who at all times has charge of and the responsibility for the safe operation of a plant, and has such other powers and duties respecting the plant and persons therein as are prescribed in this Act and the regulations;

7. "chief operator" means an operator or an operating engineer who at all times has charge of and

the responsibility for the safe operation of a compressor plant or a refrigeration plant, and has such other powers and duties respecting the plant and persons therein as are prescribed in this Act and the regulations;

8. "compressor plant" means an installation comprised of one or more compressors with prime movers and the equipment used in connection therewith for compressing but not liquefying air or any other gas to a pressure of more than 15 where the total Therm-hour rating of all such prime movers is more than 3.816;

9. "hoisting plant" means a hoist equipped with,

   i. a drum and a hoisting rope or chain, or

   ii. a hydraulic pump,

   that is driven by a prime mover or movers other than steam and that is used for raising, lowering or swinging material where the total Therm-hour rating of the prime mover or movers is,

   iii. more than 1.137 for internal combustion engines, or

   iv. 0.636 for other types of prime movers;

10. "inspector" means an inspector appointed for the purposes of this Act;

11. "low-pressure stationary plant" means an installation comprised of one or more boilers,

   i. containing steam at a pressure of 15 or less, or

   ii. containing water at a temperature at any boiler outlet of more than 212°F. and up to and including 250°F.,

   and in addition a low-pressure stationary plant may have one or more compressors and one or more refrigeration compressors, and the total Therm-hour rating of all such boilers and compressors is more than 50;

12. "Minister" means the Minister of Consumer and Commercial Relations;

13. "operating engineer" or "operator" means a person who is the holder of a certificate of qualification;

14 "plant" means a stationary power-plant, low-pressure stationary plant, steam-powered plant, compressor plant, refrigeration plant or any combination thereof, or a hoisting plant, steam hoisting plant, a portable compressor plant or a temporary heating plant;

15. "pressure" means pressure in pounds per square inch above normal atmospheric pressure;

16. "pressure vessel" means a vessel that is heated or its contents are heated by,

    i. a flame or the hot gases of combustion,

    ii. electricity,

    iii. a liquid, or

    iv. nuclear energy, either directly or indirectly;

17. "prime mover" means an initial source of motive power, and includes an electric motor, an internal combustion engine, a steam engine, a steam turbine and a gas turbine;

18. "refrigerant" means a substance that may be used to produce refrigeration by its expansion or evaporation;

19. "refrigeration plant" means an installation comprised of one or more refrigerant compressors with prime movers and the equipment used in connection therewith for compressing, liquefying at a pressure of more than 15 and evaporating a refrigerant where the total Therm-hour rating of all such prime movers is more than 2.544;

20. "regulations" means the regulations made under this Act;

21. "shift engineer" means an operating engineer who has charge of and operates a plant under the direction and supervision of a chief operating engineer and who has the authority to perform the powers and duties of the chief operating engineer when the chief operating engineer is absent from the plant;

22. "shift operator" means an operator or operating engineer who has charge of and operates a compressor or refrigeration plant under the direction and supervision of a chief operator or a chief operating engineer and who has the authority to perform the powers and duties of the chief operator or the chief operating engineer when the chief operator or the chief operating engineer is absent from the plant;

23. "stationary power plant" means an installation comprised of one or more boilers,

    i. containing steam at a pressure of more than 15, or

    ii. containing water at a temperature at any boiler outlet of more than 250°F.,

    and in addition a stationary power plant may have,

    iii. one or more boilers containing steam at a pressure of 15 or less or water at a temperature at any boiler outlet of more than 212°F. and up to and including 250°F., and

    iv. one or more compressors or refrigeration compressors,

    and the total Therm-hour rating of all such boilers and compressors is more than 17;

24. "steam hoisting plant" means a hoist equipped with a drum and a hoisting rope or chain that is driven by a steam-driven prime mover and used for raising, lowering or swinging material;

25. "steam-powered plant" means a turbine or engine having a Therm-hour rating of more than 3.816 driven by steam,

    i. from a boiler that is not owned by or under the control of the user of the turbine or engine, or

    ii. from another plant of the user of the turbine or engine;

26. "temporary heating plant" means one or more boilers, with or without compressors, that supply

heat to a project as defined in the *Occupational Health and Safety Act* or to a shaft, tunnel, caisson or coffer dam to which the regulations made under that Act apply and that operates at a pressure, R.S.O. 1980, c. 321

i. of not more than 15 and has a total Therm-hour rating of more than 50, or

ii. of more than 15 and has a total Therm-hour rating of more than 17;

27. "Therm-hour" means 100,000 British thermal units per hour or 39.3082 brake horsepower;

28. "Therm-hour rating" means the Therm-hour rating of a plant as determined under this Act or the regulations;

29. "user" means the person in control of a plant as owner, lessee or otherwise, but does not include its operating engineer or operator as such. R.S.O. 1970, c. 333, s. 1; 1972, c. 1, ss. 49, 82 (3); 1972, c. 41, s. 1.

2. This Act does not apply to, Exemptions

(*a*) a person who performs work in connection with a plant other than the actual operation of it;

(*b*) a person, other than an operating engineer or operator, engaged in installing, testing or repairing a plant;

(*c*) an elevating device as defined in the *Elevating Devices Act*; R.S.O. 1980, c. 135

(*d*) a shaft hoist or other hoist used in mining within the meaning of the *Mining Act*; R.S.O. 1980, c. 268

(*e*) an overhead bridge-type crane that is not equipped with a boiler and that operates on a fixed runway;

(*f*) a plant that is subject to inspection by the Canadian Transport Commission or the National Energy Board;

(*g*) any boiler used in connection with an open-type hot water heating system where there are no intervening valves between the boiler and any direct vent to the atmosphere;

(*h*) a stationary power plant or low-pressure stationary plant while used in connection with any growing operation except a growing operation being carried on in a greenhouse where any person, other than the user of the plant or his immediate family, is employed or works in connection with the growing operation;

(*i*) a hoisting device,

(i) that is used exclusively for raising, lowering or towing motor vehicles,

(ii) that is mounted on a motor vehicle used exclusively for fire fighting,

(iii) that is mounted on a motor vehicle and used exclusively for loading or unloading materials carried by the motor vehicle, or

(iv) of a class that is exempted by the regulations;

(*j*) a compressor that, in the opinion of the chief officer, is situated in a remote area to which a person does not normally have access, and that is controlled automatically or by remote manual control;

(*k*) a compressor of the centrifugal, screw, turbine, rotary vane or rotary lobe type;

(*l*) a compressor or refrigeration compressor that operates at a pressure of 15 or less;

(*m*) a compressor or an installation comprised of more than one compressor, whether or not connected to a registered plant, where,

(i) the Therm-hour rating of the prime mover of the compressor is 1.145 or less, or

(ii) the Therm-hour rating of the prime mover of each compressor of the installation is 1.145 or less and the total Therm-hour rating of the installation is 3.816 or less;

(*n*) a refrigerant compressor or an installation comprised of more than one refrigerant compressor, whether or not connected to a registered plant, where,

(i) the Therm-hour rating of the prime mover of the refrigerant compressor is 0.7632 or less, or

(ii) the Therm-hour rating of the prime mover of each refrigerant compressor of the installation is 0.7632 or less and the total Therm-hour rating of the installation is 2.544 or less;

(*o*) a compressor of a class that is exempted by the regulations;

(*p*) a boiler or an installation comprised of more than one boiler, whether or not connected to a registered plant, where,

(i) the boiler contains steam at a pressure of 15 or less, or water at a temperature at any boiler outlet of 250° F. or less, has a Therm-hour rating of 10 or less, and is not connected to another boiler, or

(ii) each boiler of the installation contains steam at a pressure of 15 or less, or water at a temperature at any boiler outlet of 250° F. or less, and each boiler has a Therm-hour rating of 10 or less, and the total Therm-hour rating of the installation is 50 or less;

(*q*) a boiler or an installation comprised of more than one boiler, whether or not connected to a registered plant, where,

(i) the boiler contains steam at a pressure of more than 15 or water at a temperature at any boiler outlet of more than 250° F., has a Therm-hour rating of 5 or less and is not connected to another boiler, or

(ii) each boiler of the installation contains steam at a pressure of more than 15 or water at a temperature at any boiler outlet of more than 250° F., and each boiler has a Therm-hour rating of 5 or less, and the total Therm-hour rating of the installation is 17 or less;

(*r*) any boiler, compressor or refrigerant compressor that was installed as an unattended plant before the 16th day of June, 1972;

(*s*) a coiled tube boiler containing steam at a pressure of 15 or less or water at a temperature at any boiler outlet of 250° F. or less and having a water content of 150 Imperial gallons or less;

(*t*) a coiled tube boiler containing steam at a pressure of more than 15 or water at a temperature at any boiler outlet of more than 250° F. and having a water content of 75 Imperial gallons or less. R.S.O. 1970, c. 333, s. 2; 1972, c. 41, s. 2.

Chief officer, examiners and inspectors

3.—(1) There shall be appointed a chief officer, three or more examiners and such inspectors as are necessary to administer and enforce this Act and the regulations, and such persons shall be subject to the direction and control of the Minister.

Powers of inspection

(2) The chief officer, an inspector or any person authorized in writing by the Minister may enter and inspect any building or premises where he has reason to believe a plant is being installed or operated. R.S.O. 1970, c. 333, s. 3.

Board of Examiners

4.—(1) There shall be a Board of Examiners composed of the chief officer and the examiners mentioned in section 3, one of whom may be appointed as chairman.

Quorum

(2) A majority of the members of the Board constitutes a quorum whether or not a vacancy exists on the Board. R.S.O. 1970, c. 333, s. 4.

Information

5.—(1) The chief officer may, for the purposes of this Act require a user or a manufacturer of a boiler or prime mover,

(*a*) to furnish him with information; or

(*b*) to perform tests to establish the proper Therm-hour rating of a boiler or prime mover.

Rating by actual test

(2) Where a test to establish the Therm-hour rating is performed under clause (1)(*b*) in a manner satisfactory to the chief officer, the rating as established by the test is the Therm-hour rating, notwithstanding sections 11, 12 and 13. R.S.O. 1970, c. 333, s. 5.

Registration of plants

6.—(1) Every user of a plant shall, before operating it, register it with the chief officer.

Idem

(2) Where two or more plants of a user are located on the same premises, such plants shall, unless the chief officer determines otherwise, be registered as one plant. R.S.O. 1970, c. 333, s. 6.

Certificates of registration and registration plates

7.—(1) The chief officer, upon application in the prescribed form and upon payment of the prescribed fee,

shall issue to the user of a plant a certificate of registration or a registration plate, as the case requires.

Contents of certificates of registration

(2) Every certificate of registration shall show,

(*a*) the registration number;

(*b*) the name of the user of the plant;

(*c*) the Therm-hour rating of the plant;

(*d*) the maximum pressures at which the safety valves on boilers, compressors or refrigeration compressors are respectively set to relieve pressure; and

(*e*) the classes of operating engineers or operators required for the plant.

Contents of registration plates

(3) Every registration plate shall show,

(*a*) the registration number; and

(*b*) the Therm-hour rating of the plant. R.S.O. 1970, c. 333, s. 7.

Display of certificate of registration

8.—(1) The user of a plant shall conspicuously display its certificate of registration in the engine room, compressor room or boiler room of the plant.

Display of plate

(2) The user of a hoisting plant or a steam hoisting plant shall conspicuously display its registration plate in the cab or in some equally protected position in the plant. R.S.O. 1970, c. 333, s. 8.

Reregistration

9. Where the setting of a safety valve or the Therm-hour rating of a registered plant is changed, the user of the plant shall notify the chief officer in writing within fifteen days with full particulars of such change in setting or Therm-hour rating and, where the change is sufficient to change the classes of operating engineers or operators required for the plant, he shall return the certificate of registration or registration plate, as the case may be, to the chief officer, together with the prescribed plant registration application form and the prescribed fee, and thereupon the chief officer shall issue a new certificate of registration or a new registration plate, as the case may be, for the plant. R.S.O. 1970, c. 333, s. 9.

Conversion of existing plants to Therm-hour rating

10. The registered horsepower of every plant or part thereof in use on the 16th day of June, 1969 shall be converted

from a horsepower basis to a Therm-hour basis in accordance with the following provisions:

1. The Therm-hour rating of a boiler, other than an electric boiler, is the horsepower of the boiler shown on the certificate of registration for the plant under the predecessor of this Act multiplied by 2 and divided by 3.

2. The Therm-hour rating of an electric boiler is the horsepower of the boiler shown on the certificate of registration for the plant under the predecessor of this Act divided by 3.

3. The Therm-hour rating of the prime mover of any type of compressor is the brake horsepower of the prime mover of the compressor shown on the certificate of registration for the plant under the predecessor of this Act multiplied by 0.02544.

4. The Therm-hour rating of a plant having boilers only is the total of the Therm-hour ratings of its boilers.

5. The Therm-hour rating of a plant having any type of compressors but no boilers is the total of the Therm-hour ratings of the prime movers of its compressors.

6. The Therm-hour rating of a plant having boilers and any type of compressors is the horsepower rating of the plant shown on its certificate of registration under the predecessor of this Act multiplied by 2 and divided by 3. R.S.O. 1970, c. 333, s. 10.

Interpretation

11.—(1) In this section,

(*a*) "altered" means that the maximum capacity of the boiler to heat water or to generate or heat steam while in normal continuous operation has been changed;

(*b*) "installed" means that the boiler is so placed and so equipped that in the opinion of the chief officer it is ready for use, and "reinstalled" has a corresponding meaning.

Therm-hour rating, boilers

(2) The Therm-hour rating of a boiler, other than an electric boiler, that is installed, reinstalled or altered on or after the 16th day of June, 1969 shall be the maximum number of British

thermal units in the total heat content of the water or steam entering its inlet subtracted from the total heat content of the water or steam leaving its outlet per hour, as determined by its manufacturer for its normal, continuous operation, divided by 100,000.

Idem, electric boilers

(3) The Therm-hour rating of an electric boiler that is installed, reinstalled or altered on or after the 16th day of June, 1969 shall be the maximum number of kilowatts supplied to the boiler per hour, as determined by its manufacturer for its normal, continuous operation, multiplied by 3413 and divided by 100,000. R.S.O. 1970, c. 333, s. 11.

Therm-hour rating, prime movers

12. The Therm-hour rating of a prime mover, other than an electric motor or an internal combustion engine, is the maximum brake horsepower, as determined by its manufacturer for its normal, continuous operation, multiplied by 0.02544. R.S.O. 1970, c. 333, s. 12.

Therm-hour rating, electric motors

13.—(1) The Therm-hour rating of an electric motor is the lesser of,

(*a*) the maximum brake horsepower, as determined by its manufacturer for its normal, continuous operation, multiplied by 0.02544; or

(*b*) the maximum kilowatt rating of the motor, as determined by its manufacturer for its normal, continuous operation, modified where necessary for the type of service in which it is used, multiplied by 0.03413.

Idem, internal combustion engines

(2) The Therm-hour rating of an internal combustion engine is,

(*a*) the maximum brake horsepower, as determined by the engine manufacturer for its normal, continuous operation, multiplied by 0.02544; or

(*b*) where the manufacturer of the engine has not determined its maximum brake horsepower for its normal, continuous operation, the Therm-hour rating is the product of the following formula multiplied by 0.02544:

$$\frac{(\textit{diameter of cylinders in inches})^2 \times \textit{number of cylinders}}{1.4}$$

Exception

(3) Where, in the opinion of the chief officer, the Therm-hour rating of an engine cannot be determined under clause (2) (*b*), the chief officer may establish the Therm-hour rating of the engine. R.S.O. 1970, c. 333, s. 13.

Therm-hour rating, plants

14.—(1) The Therm-hour rating,

(*a*) of a stationary power plant is the total of the Therm-hour ratings of its boilers and of the prime movers of its compressors;

(*b*) of a low-pressure stationary plant is the total of the Therm-hour ratings of its boilers and of the prime movers of its compressors;

(*c*) of a compressor plant that has motive power other than steam is the total of the Therm-hour ratings of the prime movers of its compressors;

(*d*) of a refrigeration plant that has motive power other than steam is the total of the Therm-hour ratings of the prime movers of its compressors;

(*e*) of a steam-powered plant is the total of the Therm-hour ratings of its prime movers.

Exceptional cases

(2) Where a plant does not fall within one of the clauses of subsection (1), its Therm-hour rating shall be determined by the chief officer.

Idem, combination plants

(3) Where two or more plants of a user are located on the same premises and are registered as a plant, its Therm-hour rating is the total of the Therm-hour ratings of such plants. R.S.O. 1970, c. 333, s. 14.

Classes of operating engineers

15.—(1) Operating engineers shall be classified as follows:

1. Stationary engineer (fourth, third, second or first class).
2. Provisional stationary engineer (fourth, third or second class).
3. Hoisting engineer.
4. Steam-hoisting engineer.

Classes of operators

(2) Operators shall be classified as follows:

1. Compressor operator.
2. Refrigeration operator (B or A class). R.S.O. 1970, c. 333, s. 15.

Stationary engineers (4th class), what qualified to do

16.—(1) A person holding a stationary engineer's (fourth class) certificate of qualification is qualified,

(*a*) to act as chief operating engineer in charge of,

(i) any stationary power plant of not more than 50 Therm-hours where the Therm-hour rating of refrigeration compressors is not more than 2.544 and the Therm-hour rating of compressors, including any refrigeration compressors, is not more than 5.088,

(ii) any low-pressure stationary plant of not more than 134 Therm-hours,

(iii) any steam-powered plant of not more than 7.632 Therm-hours,

(iv) any refrigeration plant of not more than 5.088 Therm-hours,

(v) any compressor plant of not more than 10.176 Therm-hours,

(vi) any plant referred to in subclause (ii) or (iii) whose total Therm-hour rating includes the Therm-hour rating of refrigeration compressors of not more than 3.816 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 7.632 Therm-hours;

(*b*) to act as shift engineer in,

(i) any stationary power plant of not more than 134 Therm-hours where the Therm-hour rating of refrigeration compressors is not more than 5.088 and the Therm-hour rating of compressors, including any refrigeration compressors, is not more than 10.176,

(ii) any low-pressure stationary plant of not more than 400 Therm-hours,

(iii) any steam-powered plant,

(iv) any refrigeration plant of not more than 20.352 Therm-hours,

(v) any compressor plant,

(vi) any plant referred to in subclause (ii) or (iii) whose total Therm-hour rating includes the Therm-hour rating of refrigeration compressors of not more than 15.264 or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528 Therm-hours;

(*c*) to act as assistant shift engineer in,

(i) any stationary power plant of not more than 400 Therm-hours,

(ii) any low-pressure stationary plant, steam-powered plant, refrigeration plant or compressor plant.

Idem, stationary engineers (3rd class)

(2) A person holding a stationary engineer's (third class) certificate of qualification is qualified,

(*a*) to act as chief operating engineer in charge of,

(i) any stationary power plant of not more than 134 Therm-hours where the Therm-hour rating of refrigeration compressors is not more than 5.088 and the Therm-hour rating of compressors, including any refrigeration compressors, is not more than 10.176,

(ii) any low-pressure stationary plant of not more than 400 Therm-hours,

(iii) any steam-powered plant,

(iv) any refrigeration plant of not more than 20.352 Therm-hours,

(v) any compressor plant,

(vi) any plant referred to in subclause (ii) or (iii) whose total Therm-hour rating includes the Therm-hour rating of refrigeration compressors of not more than 15.264 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528 Therm-hours;

(*b*) to act as shift engineer in,

(i) any stationary power plant of not more than 400 Therm-hours that includes the Therm-hour rating of refrigeration compressors of not more than 15.264 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528,

(ii) any low-pressure stationary plant, steam-powered plant, compressor or refrigeration plant;

(*c*) to act as assistant shift engineer in any plant.

Idem, stationary engineers (2nd class)

(3) A person holding a stationary engineer's (second class) certificate of qualification is qualified,

(*a*) to act as chief operating engineer in charge of,

(i) a stationary power plant of not more than 400 Therm-hours that includes the Therm-hour rating of refrigeration compressors of not more than 15.264 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528 Therm-hours,

(ii) any low-pressure stationary plant, steam-powered plant, compressor or refrigeration plant;

(*b*) to act as shift engineer in any plant.

Idem, stationary engineers (1st class)

(4) A person holding a stationary engineer's (first class) certificate of qualification is qualified to act as chief operating engineer in charge of any plant.

Idem, compressor operators

(5) A person holding a compressor operator's certificate of qualification is qualified to act as a chief or shift operator in any compressor plant whose prime mover is not a steam engine or steam turbine.

Idem, refrigeration operators (class B)

(6) A person holding a refrigeration operator's (class B) certificate of qualification is qualified,

(*a*) to act as chief operator in a refrigeration plant of not more than 20.352 Therm-hours or in any compressor plant whose prime mover is not a steam engine or steam turbine;

(*b*) to act as a shift operator in any refrigeration or compressor plant whose prime mover is not a steam engine or steam turbine.

Idem, refrigeration operators (class A)

(7) A person holding a refrigeration operator's (class A) certificate of qualification is qualified to act as chief or shift operator in any compressor or refrigeration plant whose prime mover is not a steam engine or steam turbine.

Idem, steam hoisting engineers

(8) A person holding a steam hoisting engineer's certificate of qualification is qualified to operate any steam hoisting plant or hoisting plant.

Idem, hoisting engineers

(9) A person holding a hoisting engineer's certificate of qualification is qualified to operate any hoisting plant or portable compressor plant whose prime mover is not a steam engine or steam turbine.

Idem, stationary engineers, steam hoisting engineers

(10) A person holding a certificate of qualification of any class of stationary engineer or of a steam hoisting engineer is qualified to operate a portable compressor plant, a temporary heating plant or a portable boiler used in connection with any portable machinery or a device for melting ice or snow.

Idem, holders of provisional certificates

(11) A person holding a provisional certificate of qualification under section 23 is qualified to perform the same work and duties as an operating engineer or operator holding a corresponding certificate of qualification. R.S.O. 1970, c. 333, s. 16.

Trainees

17. A person who is obtaining qualifying experience for his first certificate of qualification may not perform work in connection with the actual operation of a plant except under the personal direction and supervision of an operating engineer or operator. R.S.O. 1970, c. 333, s. 17.

Shift operators for compressors in stationary plants

18. Where a low-pressure stationary plant or stationary power plant has a compressor or a refrigeration compressor, the user of the plant may employ one or more compressor operators or one or more refrigeration operators, as the case may be, as shift operator or shift operators for the compressor. R.S.O. 1970, c. 333, s. 18.

Absence due to sickness or holidays

19. Where an operating engineer or operator is absent from his plant due to sickness or while on holidays, an operating engineer or operator holding a certificate not more than one class lower than the certificate of the operating engineer or operator who is absent may, during the absence, operate the plant for not more than thirty days per year or such greater

number of days per year as the chief officer may authorize in writing in any particular case. R.S.O. 1970, c. 333, s. 19.

Temporary absences

20. While a plant is in operation, an operating engineer or an operator qualified to be in charge of such a plant shall be present in its boiler room, compressor room or engine room, as the case may be, or, where it is not enclosed, he shall be present in its immediate vicinity,

(*a*) unless an operating engineer or an operator holding a certificate of qualification that is not more than one class lower is present during his absence;

(*b*) unless his absence is authorized by the regulations,

and unless, in either case, he is satisfied at the time of his leaving the plant that it is operating safely. R.S.O. 1970, c. 333, s. 20.

Increase in Therm-hour rating

21. Where a plant has been operated by an operating engineer or operator in compliance with this Act and the regulations and the Therm-hour rating of the plant is increased so that the operating engineer or operator, as the case may be, is no longer qualified to operate the plant and he has operated the plant continuously for three consecutive years immediately before the increase, he may continue to operate the plant for such period and under such terms and conditions as the regulations prescribe. R.S.O. 1970, c. 333, s. 21.

Certificate of qualification

22.—(1) The Board shall issue, in accordance with the regulations, a certificate of qualification to any person who,

(*a*) shows proof satisfactory to the Board of having acquired the qualifying experience required by the regulations;

(*b*) passes the examination conducted by the Board, or furnishes evidence that he has successfully completed a course of training that the Minister has approved for the purpose upon the advice of the board of review; and

(*c*) pays the fee prescribed by the regulations.

Term

(2) Every certificate of qualification remains in force as prescribed by the regulations. 1972, c. 41, s. 3.

Provisional certificates of qualification

23.—(1) The Board may, upon payment of the prescribed fee and in accordance with the regulations, issue a provisional certificate of qualification without examination to any

person who, in the opinion of the Board, holds a subsisting certificate issued by another province of Canada that qualifies the person to perform the work and duties of an operating engineer or operator in such province.

Idem

(2) A provisional certificate under subsection (1) shall be one grade lower than the certificate of qualification that, in the opinion of the Board, corresponds to the certificate issued by the other province.

Term

(3) Every provisional certificate of qualification remains in force for one year from the date of issue, unless sooner suspended or cancelled, and is not renewable. R.S.O. 1970, c. 333, s. 23.

Cancellation or suspension of certificate of qualification

24. Subject to section 25, the Board may cancel or suspend a certificate of qualification if the operating engineer or operator,

(*a*) is habitually intemperate in his use of alcoholic beverages or is addicted to the use of drugs;

(*b*) operates a plant when his ability to do so is impaired by alcohol or a drug;

(*c*) is declared to be mentally incompetent or becomes physically incapable of safely performing his duties;

(*d*) is incompetent or negligent in the discharge of his duties as an operating engineer or operator;

(*e*) has obtained his certificate through misrepresentation or fraud;

(*f*) maliciously destroys his employer's property;

(*g*) allows another person to operate under his certificate;

(*h*) attempts to obtain a certificate by false means for another person;

(*i*) fails to give the notice required by section 31;

(*j*) leaves the employ of his employer without having given his employer at least seven days notice in writing of his intention to leave;

(*k*) furnishes information for the use of the Board respecting an applicant for a certificate without knowing that the information is true; or

(*l*) contravenes any of the provisions of this Act or the regulations. R.S.O. 1970, c. 333, s. 24 (1); 1971, c. 50, s. 64 (1).

Notice of proposal to suspend, etc., certificate

25.—(1) Where the Board proposes to refuse to renew or proposes to suspend or cancel a certificate of qualification, it shall serve notice of its proposal, together with written reasons therefor, on the holder of the certificate.

Hearing

(2) A notice under subsection (1) shall inform the holder of the certificate that he is entitled to a hearing by a judge if he applies therefor to a judge of the county or district court for the county or district in which he resides, within fifteen days after the notice under subsection (1) is served on him, and he may so apply for such a hearing.

Powers of Board where no hearing

(3) Where a holder of a certificate does not apply to a judge for a hearing in accordance with subsection (2), the Board may carry out the proposal stated in its notice under subsection (1).

Powers of Board where hearing

(4) Where a holder of a certificate applies to a judge for a hearing in accordance with subsection (2), the judge shall appoint a time for and hold the hearing and, on the application of the Board at the hearing, may by order direct the Board to carry out its proposal or refrain from carrying out its proposal and to take such action as the judge considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Board.

Service of notice by Board

(5) The Board may serve notice under subsection (1) personally or by registered mail addressed to the holder of the certificate at his address last known to the Board and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for application

(6) A judge to whom application is made by a holder of a certificate for a hearing under this section, may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the holder of the certificate pursuant to a hearing and that there are

reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension.

Continuation of certificate pending renewal

(7) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his certificate, a holder of a certificate has applied for renewal of his certificate and paid the prescribed fee, his certificate shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision. 1971, c. 50, s. 64 (3), *part*.

Parties

26.—(1) The Board, the holder of the certificate who has applied for the hearing and such other persons as are specified by the judge are parties to the proceedings before a judge under section 25.

Notice of hearing

(2) Notice of a hearing under section 25 shall afford to the holder of the certificate a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the certificate.

Examination of documentary evidence

(3) A holder of a certificate who is a party to proceedings under section 25 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording of evidence

(4) The oral evidence taken before the judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(5) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1970, c. 50, s. 64 (3), *part*.

R.S.O. 1980, c. 484

Appeal from decision of judge to court

27.—(1) Any party to proceedings before a judge under section 25 may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Records to be filed in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made, which together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(4) The Divisional Court may, on the appeal, affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations and may order the Board to do any act or thing it is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Board or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 64 (4), *part*.

Appeal from decision of chief officer

28.—(1) Any person who deems himself aggrieved by a decision of the chief officer under this Act or the regulations may, within ten days after the decision comes to his attention, appeal to a judge of the county or district court for the county or district in which the plant, boiler or other subject-matter to which the decision relates is located, by notice in writing sent by prepaid mail to the chief officer and the judge.

Powers of judge on appeal

(2) Where a person has appealed to a judge under subsection (1), the judge shall appoint a time for a hearing and shall hear the appeal and may affirm, rescind or vary the decision of the chief officer and may direct the chief officer to take any action that he is authorized to take under this Act or the regulations and as the judge considers proper, and for such purpose the judge may substitute his opinion for that of the chief officer.

Application of s. 25

(3) Subsection 25 (6) applies with necessary modifications to an appeal under this section.

Parties

(4) The chief officer, the appellant and such other persons as the judge may specify are parties to an appeal under this section.

Decision of judge final

(5) A decision of a judge under this section is final. 1971, c. 50, s. 64 (4), *part*.

Effect of decision pending disposal of appeal

29. The bringing of an appeal under section 27 or 28 does not affect the operation of the decision appealed from pending disposition of the appeal. 1971, c. 50, s. 64 (4), *part*.

Posting of certificates

30. Every operating engineer or operator shall display conspicuously his certificate of qualification in the engine room, compressor room or boiler room of the plant in which the operating engineer or operator works, except in the case of a steam hoisting or hoisting engineer, in which case he shall carry the certificate upon his person. 1972, c. 41, s. 4, *part*.

Duty to notify of absence

31. Every operating engineer or operator who,

(*a*) knows that he will be absent from his duties; or

(*b*) is unable to commence or continue his duties,

shall immediately make every reasonable effort in the circumstances to so notify his chief operating engineer or chief operator or shift engineer or shift operator, or, if none, his employer. R.S.O. 1970, c. 333, s. 28.

Prohibitions, operation by other than operating engineer or operator

32.—(1) No person other than an operating engineer who holds a certificate of qualification shall perform the work and duties of an operating engineer, and no person other than an operating engineer or operator who holds a certificate of qualification shall perform the work and duties of an operator.

Employment of unqualified persons prohibited

(2) No person shall employ,

(*a*) any person who is not an operating engineer to perform the work and duties of an operating engineer or operator, or any person who is not an operator to perform the work and duties of an operator; or

(*b*) any operating engineer or operator to operate a plant that he is not qualified under this Act to operate.

Work prohibited, unless qualified therefor

(3) No operating engineer or operator shall perform any work or duties of an operating engineer or operator that he is not qualified under this Act to perform. R.S.O. 1970, c. 333, s. 29.

Operation of plants

33. No person shall use or operate a plant or cause a plant to be used or operated except in accordance with this Act and the regulations. R.S.O. 1970, c. 333, s. 30.

False statements

34. No person shall knowingly make a false statement or entry in an application, log book or document required by this Act or the regulations to be submitted or kept or knowingly furnish information under this Act or the regulations that is false, or knowingly make use of any such false statement, entry or information. 1972, c. 41, s. 5.

Offences

35.—(1) Every person who contravenes or fails to comply with any of the provisions of this Act or the regulations, or hinders or obstructs any person in the performance of his duties under this Act or the regulations, is guilty of an offence against this Act and on conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than twelve months, or to both.

Continuing offence

(2) Where the circumstances constituting an offence against this Act continue from day to day and a prosecution has been commenced in respect of the offence, the offence shall be deemed to have been repeated on each day the circumstances continue. R.S.O. 1970, c. 333, s. 31.

Board of review

36.—(1) The Lieutenant Governor in Council may appoint a board of review consisting of a chairman and equal numbers of representatives of plant users and operating engineers,

(*a*) to advise the Minister as to the effectiveness of the Act and regulations in ensuring safety in connection with the operation of plants;

(*b*) to evaluate and advise the Minister as to equipment and operating procedures in ensuring safety in connection with the operation of plants;

(*c*) to advise the Minister, management and labour in connection with the training and employment of operating engineers and operators.

Terms of office and remuneration

(2) The Lieutenant Governor in Council may fix the terms of office and the remuneration of the members of the board of review.

Vacancies

(3) The Lieutenant Governor in Council may fill any vacancy in the membership of the board of review.

Responsible to Minister

(4) The board of review is responsible to the Minister. R.S.O. 1970, c. 333, s. 32.

Regulations

37. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the qualifications of members of the Board and of inspectors;

(*b*) prescribing the qualifications of applicants for certificates of qualification and provisional certificates of qualification and the evidence required to be furnished by such applicants as to previous training and experience;

(*c*) prescribing courses of training or study for applicants for certificates of qualification;

(*d*) prescribing the powers and duties of chief operating engineers, chief operators, shift engineers and shift operators;

(*e*) prescribing the conditions of re-examination of applicants for certificates of qualification who have failed to pass the examinations required by the Board;

(*f*) providing for the issue, renewal and reinstatement of certificates of qualification and for the issue of provisional certificates of qualification;

(*g*) prescribing the method of establishing the Therm-hour ratings of internal combustion engines, or any class thereof, not specified in this Act;

(*h*) classifying plants and exempting any class from any provision of this Act or the regulations;

(*i*) respecting the operation of plants or any class of plants;

(*j*) providing for the isolation of boilers and compressors by means of seals or otherwise;

(*k*) authorizing and prescribing the circumstances and periods of absence for the purposes of section 20;

(*l*) prescribing the periods during which and the terms and conditions upon which operating engineers and operators may continue to operate plants whose Therm-hour rating has been increased;

(*m*) prescribing forms and providing for their use;

(*n*) providing for and prescribing fees. R.S.O. 1970, c. 333, s. 33; 1971, c. 50, s. 64 (5).

CHAPTER 364

Ophthalmic Dispensers Act

Interpretation

1. In this Act,

(*a*) "Board" means the Board of Ophthalmic Dispensers;

(*b*) "ophthalmic appliances" means lenses, spectacles, eyeglasses, artificial eyes, contact lenses or appurtenances thereto for the aid or correction of visual or ocular anomalies of the eyes;

(*c*) "ophthalmic dispenser" means a person registered under this Act;

(*d*) "ophthalmic dispensing" means,

(i) supplying, preparing and dispensing ophthalmic appliances,

(ii) interpreting prescriptions of legally qualified medical practitioners and optometrists, and

(iii) the fitting, adjusting and adapting of ophthalmic appliances to the human face and eyes in accordance with the prescriptions of legally qualified medical practitioners and optometrists;

(*e*) "registrar" means the registrar of the Board;

(*f*) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 334, s. 1.

Appointment of Board

2.—(1) The Lieutenant Governor in Council may appoint a board consisting of not fewer than five members to be known as the Board of Ophthalmic Dispensers.

Term of office

(2) Every member of the Board shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office.

Vacancies

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the Lieutenant Governor in Council by the appointment of a person to hold office for the remainder of the term of such member. R.S.O. 1970, c. 334, s. 2.

Election of Board

3.—(1) Notwithstanding section 2, the Lieutenant Governor in Council may prescribe the constitution of the Board and provide for the election of its members by and from ophthalmic dispensers on a geographical basis or otherwise.

Repeal of s. 2

(2) As soon as the Board has been elected under this section, section 2 shall be deemed to be repealed. R.S.O. 1970, c. 334, s. 3.

Officers

4. The chairman, vice-chairman and secretary-treasurer of the Board shall be elected by the members of the Board from among themselves. R.S.O. 1970, c. 334, s. 4.

Status and function of Board

5. The Board is a corporation and it shall administer and enforce this Act and the regulations. R.S.O. 1970, c. 334, s. 5.

By-laws

6. The Board may pass by-laws providing for,

(*a*) the calling and conduct of its meetings and proceedings;

(*b*) the remuneration and expenses of persons employed by the Board while engaged upon the business of the Board;

(*c*) the appointment and remuneration of teachers, examiners, inspectors and such other persons as the Board may employ, and prescribing the duties of such persons;

(*d*) banking and finance and management of its property;

(*e*) entering into an agreement or agreements with any university, school or college for such instruction, direction and lectures as may be necessary for the purposes of this Act;

(*f*) all other matters reasonably necessary for carrying out the provisions of this Act. R.S.O. 1970, c. 334, s. 6.

Registration requirements

7. Every applicant for registration as an ophthalmic dispenser who furnishes satisfactory evidence that he,

(*a*) is over twenty-one years of age and is of good moral character;

(*b*) has,

(i) completed a course of study in a school of ophthalmic dispensing approved under the regulations and has had practical training for one year in Canada with an ophthalmic dispenser or optometrist, or

(ii) completed at least three years training and experience in ophthalmic dispensing, at least one of which was in Canada, under the supervision of a legally qualified medical practitioner, wholesale optical company, ophthalmic dispenser or optometrist and has completed a home study course as prescribed by the regulations, or

(iii) in the opinion of the Board, the qualifications and experience equivalent to that set forth in subclause (i) or (ii) and has had one year's experience in Canada, under the supervision of a legally qualified medical practitioner, wholesale optical company, ophthalmic dispenser or optometrist;

(*c*) has passed the examinations of the Board; and

(*d*) has paid the prescribed fee,

shall be registered as an ophthalmic dispenser. R.S.O. 1970, c. 334, s. 7.

Special register

8.—(1) Notwithstanding section 7, the Board may establish a special register for the registration of persons and classes of persons designated by the regulations.

Practice of special registrants

(2) The persons registered in the special register may practise ophthalmic dispensing in the manner and subject to the conditions, limitations and restrictions prescribed by the regulations. R.S.O. 1970, c. 334, s. 8.

Register

9.—(1) The registrar shall keep a register of all ophthalmic dispensers, showing their places of business or employment from time to time.

Idem

(2) When the registrar is satisfied that an applicant for registration is entitled to be registered, he shall enter the name of the applicant in the register and shall issue a certificate of registration to the applicant.

Idem

(3) If an application for registration is refused by the registrar or an entry is made in the register in error or by reason of misrepresentation, the Board may direct that the necessary entry, erasure or amendment be made in the register and the registrar shall make such entry, erasure or amendment. R.S.O. 1970, c. 334, s. 9.

Renewal of certificate

10. Every certificate of registration shall be renewed annually at such times and upon such conditions and the payment of such fee as are prescribed by the regulations. R.S.O. 1970, c. 334, s. 10.

Use of "optician", etc.

11. No person, other than an ophthalmic dispenser, shall assume or use the title "optician" or "ophthalmic dispenser". R.S.O. 1970, c. 334, s. 11.

Unauthorized practice prohibited

12. Except as otherwise provided in this Act, no person, other than an ophthalmic dispenser, shall,

(*a*) practise ophthalmic dispensing;

(*b*) prepare or dispense prescriptions of legally qualified medical practitioners or optometrists for ophthalmic appliances; or

(*c*) offer for sale or sell ophthalmic appliances. R.S.O. 1970, c. 334, s. 12.

Where prescription required, exception

13. No ophthalmic dispenser shall supply or dispense an ophthalmic appliance except upon a prescription therefor of a legally qualified medical practitioner or an optometrist, but an ophthalmic dispenser may supply and dispense duplications, replacements, reproductions or repetitions of any ophthalmic appliance. R.S.O. 1970, c. 334, s. 13.

Suspension and revocation of certificate

14.—(1) The Board may by order suspend or revoke the certificate of registration of any ophthalmic dispenser whom it finds has been guilty of unprofessional conduct as defined by the regulations, or of incompetency, fraud or misrepresentation in connection with his practice of ophthalmic dispensing.

(2) Before suspending or revoking the certificate of registration of an ophthalmic dispenser under subsection (1), the Board shall, by notice in writing, advise him of the complaint or charge that has been made against him and shall provide him with an opportunity of appearing before the Board at a public hearing and of presenting such evidence and making such representations as he may desire. Public hearing

(3) The Board may review at any time any order made under this section and may make such further order as it considers proper. Review

(4) A copy of any order made under this section shall be served on the person affected. R.S.O. 1970, c. 334, s. 14. Service of order

15.—(1) Any person affected by an order made under section 14 may appeal therefrom to a judge of the county or district court of the county or district in which he practises. Appeal

(2) Notice of appeal shall be given in writing within two weeks after service of the copy of the order of the Board on the person affected by filing a copy thereof with the clerk of the court and serving a copy thereof on the registrar. Notice of appeal

(3) The appellant shall apply to the judge to fix a date for the hearing of the appeal, and shall forthwith serve on the registrar notice of the date so fixed. Date of hearing

(4) The appellant may appear on the appeal in person or by counsel, and the Board may appear by any member thereof or by counsel. Appearances

(5) The hearing of the appeal shall be a trial *de novo* and the judge may hear all such evidence as he considers to be relevant, and may affirm the order of the Board, or amend it and affirm it as amended, or set it aside. R.S.O. 1970, c. 334, s. 15. Trial *de novo*

16. Every person who contravenes any of the provisions of this Act is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $500. R.S.O. 1970, c. 334, s. 16. Offences

17. All fines recovered for offences against this Act shall be paid to the registrar for the use of the Board. R.S.O. 1970, c. 334, s. 17. Disposition of fines

18. Nothing in this Act applies to a legally qualified medical practitioner or an optometrist. R.S.O. 1970, c. 334, s. 18. Saving as to physicians and optometrists

Saving as to certain practices

19. Nothing in this Act prevents,

(*a*) the practice of ophthalmic dispensing by a retail merchant at his ordinary place of business or the carrying on therein of an optical department, if an ophthalmic dispenser is in charge of the practice or of the optical department; or

(*b*) the sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic corrective lens or lenses, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye. R.S.O. 1970, c. 334, s. 19.

Prices, etc., not to be controlled

20. Nothing in this Act authorizes the Board to regulate, control or interfere with the prices that may be charged for ophthalmic appliances or the terms upon which the charges or fees may be paid. R.S.O. 1970, c. 334, s. 20.

Retail merchants

21. Nothing in this Act prevents the sale or offering for sale by a retail merchant at his place of business of spectacles or eyeglasses, but the Lieutenant Governor in Council may make regulations governing or restricting such sale or offering for sale and prescribing the terms and conditions thereof and designating the nature and kind of spectacles and eyeglasses that may be sold under this section. R.S.O. 1970, c. 334, s. 21.

Regulations

22. The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

(*a*) prescribing the requirements for admission to schools of ophthalmic dispensing and the courses of instruction therein;

(*b*) prescribing courses of home study;

(*c*) providing for the holding of examinations for candidates for registration as ophthalmic dispensers who are in attendance at or graduates of schools of ophthalmic dispensing;

(*d*) governing the registration of candidates for registration as ophthalmic dispensers and the suspension and cancellation of the registration of ophthalmic dispensers and the issue and renewal of certificates of registration;

(*e*) prescribing the persons or classes of persons who may be registered in the special register and the manner in which, and the conditions, limitations and restrictions subject to which, they may practise ophthalmic dispensing;

(*f*) defining unprofessional conduct for the purposes of this Act;

(*g*) prescribing fees for the examination of candidates for registration as ophthalmic dispensers and for the registration thereof and for the renewal of certificates of registration;

(*h*) prescribing the fees and expenses payable to members of the Board while carrying on their duties under this Act;

(*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 334, s. 22.

CHAPTER 365

County of Oxford Act

INTERPRETATION

1. In this Act, Interpretation

(*a*) "area municipality" means the municipality or corporation of the City of Woodstock, the Town of Ingersoll, the Town of Tillsonburg, the Township of Blandford-Blenheim, the Township of East Zorra-Tavistock, the Township of Zorra, the Township of Norwich and the Township of South-West Oxford all as constituted by section 2;

(*b*) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;

(*c*) "County" means the County of Oxford;

(*d*) "County Council" means the council of the County;

(*e*) "county road" means a road forming part of the county road system established under Part III;

(*f*) "debt" includes any obligation for the payment of money;

(*g*) "divided municipality" means a local municipality parts of which are annexed to two or more municipalities under subsection 2 (1);

(*h*) "highway" and "road" means a common and public highway or any part thereof, and include a street, bridge, and any other structure incidental thereto or any part thereof;

(*i*) "land" includes lands, tenements and hereditaments and any estate or interest therein, and any right or easement affecting them, and land covered with water, and includes any buildings or improvements on land:

(*j*) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of an area municipality or of two or more area municipalities or parts thereof;

(*k*) "local municipality" means in the year 1974 any local municipality or portion thereof in the County;

(*l*) "merged area" means a local municipality that is amalgamated with another local municipality or a part of a local municipality that is annexed to a local municipality to constitute an area municipality under subsection 2 (1) or the local municipality to which such part is annexed;

(*m*) "Minister" means the Minister of Intergovernmental Affairs;

(*n*) "Ministry" means the Ministry of Intergovernmental Affairs;

(*o*) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money;

(*p*) "Municipal Board" means the Ontario Municipal Board;

(*q*) "roadway" means that part of the highway designed or intended for use by vehicular traffic. 1974, c. 57, s. 1; O. Reg. 987/74, *revised*.

PART I

AREA MUNICIPALITIES

Constitution of area municipalities

2.—(1) On the 1st day of January, 1975,

(*a*) The City of Woodstock is continued as a city municipality.

(*b*) The Town of Ingersoll is continued as a town municipality.

(*c*) The Town of Tillsonburg is continued as a town municipality and portions of the Township of Dereham described as follows are annexed to such town:

FIRSTLY, part of the Township of Dereham, commencing at the southeast angle of the Township of Dereham;

THENCE northerly along the east boundary of the Township of Dereham to the north limit of the road allowance between concessions XI and XII;

THENCE westerly along the north limit of the road allowance between concessions XI and XII to the boundary of the Town of Tillsonburg;

THENCE following the boundaries between the Township of Dereham and the Town of Tillsonburg to the south boundary of the said Township;

THENCE easterly along the south boundary of the Township of Dereham to the point of commencement;

SECONDLY, part of the Township of Dereham, commencing at the intersection of the south boundary of the Township of Dereham and the southerly prolongation of the west limit of Lot 8 in Concession XII;

THENCE northerly along the west limit of Lot 8 in concessions XII, XI and X, respectively, to the centre line of Concession X;

THENCE easterly along the centre line of Concession X to the east limit of Lot 3 in Concession X;

THENCE southerly along the east limit of Lot 3 in Concession X and its prolongation to an angle in the Town of Tillsonburg;

THENCE westerly and southerly following the boundaries between the Township of Dereham and the Town of Tillsonburg to the south boundary of the Township of Dereham;

THENCE westerly along the south boundary of the Township of Dereham to the point of commencement.

(*d*) The Corporation of the Township of Blandford and The Corporation of the Township of Blenheim are amalgamated as a township municipality bearing the name of The Corporation of the Township of Blandford-Blenheim.

(*e*) The Corporation of the Township of East Zorra and The Corporation of the Village of Tavistock are amalgamated as a township municipality bearing the name of The Corporation of the Township of East Zorra-Tavistock, and the portion of the Township of North Oxford described as follows, is annexed to such Township:

COMMENCING at the intersection of the north boundary of the Township of North Oxford and the northerly prolongation of the west limit of Lot 26 in Concession I;

THENCE southerly to and along the west limit of Lot 26 in Concession I and its prolongation to the middle of the main channel of the Thames River;

THENCE easterly along the middle of the main channel of the Thames River to the west boundary of the City of Woodstock;

THENCE following the boundaries between the Township of North Oxford and the City of Woodstock to the north boundary of the Township of North Oxford;

THENCE westerly along the north boundary of the Township of North Oxford to the point of commencement.

(*f*) The Corporation of the Township of East Nissouri, The Corporation of the Village of Embro and The Corporation of the Township of West Zorra are amalgamated as a township municipality bearing the name of The Corporation of the Township of Zorra and the portion of the Township of North Oxford, described as follows, is annexed to such Township:

COMMENCING at the northwest angle of the Township of North Oxford;

THENCE southerly along the west boundary of the Township of North Oxford and its prolongation in accordance with subsection 11 (1) of *The Territorial Division Act*, being chapter 458 of the Revised Statutes of Ontario, 1970, to the middle of the main channel of the Thames River;

THENCE easterly along the middle of the main channel of the Thames River to the west boundary of the separated Town of Ingersoll;

THENCE following the boundaries between the Township of North Oxford and the separated Town of Ingersoll to the middle of the main channel of the Thames River;

THENCE easterly along the middle of the main channel of the Thames River to the boundary of the Village of Beachville;

THENCE following the boundaries between the Township of North Oxford and the Village of Beachville to the middle of the main channel of the Thames River;

THENCE easterly along the middle of the main channel of the Thames River to the southerly prolongation of the east limit of Lot 25 in Concession I of the Township of North Oxford;

THENCE northerly to and along the east limit of said Lot 25 and its prolongation to the north boundary of the Township of North Oxford;

THENCE westerly along the north boundary of the Township of North Oxford to the point of commencement.

(*g*) The Corporation of the Township of East Oxford, The Corporation of the Township of North Norwich, The Corporation of the Village of Norwich and The Corporation of the Township of South Norwich are amalgamated as a township municipality bearing the name of The Corporation of the Township of Norwich.

(*h*) The Corporation of the Village of Beachville and The Corporation of the Township of West Oxford are amalgamated as a township municipality bearing the name of The Corporation of the Township of South-West Oxford, and the portion of the Township of Dereham, described as follows, is annexed to such Township:

COMMENCING at the intersection of the east boundary of the Township of Dereham and the north limit of the road allowance between concessions XI and XII;

THENCE westerly along the north limit of the road allowance between concessions XI and XII to the boundary of the Town of Tillsonburg;

THENCE northerly along the boundary of the Town of Tillsonburg to its northeast angle;

THENCE northerly to and along the east limit of Lot 3 in Concession X in the Township of Dereham to the centre line of Concession X;

THENCE westerly along the centre line of Concession X to the west limit of Lot 8 in Concession X;

THENCE southerly along the west limit of Lot 8 in concessions X, XI and XII and its prolongation to the south boundary of the Township of Dereham;

THENCE westerly along the south boundary of the Township of Dereham to its southwest angle;

THENCE northerly along the west boundary of the Township of Dereham to its northwest angle;

THENCE easterly along the north boundary of the Township of Dereham to its northeast angle;

THENCE southerly along the east boundary of the Township of Dereham to the point of commencement. 1974, c. 57, s. 2 (1).

Portion of Zorra annexed to South-West Oxford

(2) The portion of the Township of Zorra described as follows is annexed to the Township of South-West Oxford on the 1st day of July, 1978:

That tract of land situate in the Township of Zorra, in the County of Oxford, formerly in the Township of North Oxford and described as Part 1 on a Reference Plan of part of Lot 21, Concession 1, deposited in the Land Registry Office for the Registry Division of Oxford (No. 41) as 41R-1365.

Application of subs. (5)

(3) Subsection (5) applies with necessary modifications to the annexation provided for in subsection (2). 1978, c. 36, s. 1.

Dissolution of police villages

(4) The following police villages are dissolved on the 1st day of January, 1975:

1. The Police Village of Bright.
2. The Police Village of Burgessville.
3. The Police Village of Drumbo.
4. The Police Village of Innerkip.
5. The Police Village of Otterville.
6. The Police Village of Plattsville.
7. The Police Village of Princeton.
8. The Police Village of Thamesford.

Amalgamations, annexations and dissolutions deemed by O.M.B. orders R.S.O. 1980, cc. 347, 302

(5) For the purposes of every Act, the amalgamations, annexations and dissolutions provided for in this Part shall be deemed to have been effected by orders of the Municipal Board not subject to section 42 of the *Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of such Act, made on the 28th day of June, 1974, pursuant to applications made under sections 14 and 25 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, and, subject to the provisions of this Act, the Municipal Board, upon the application of any area municipality or any local board thereof or of its own motion, may exercise its powers consequent upon such amalgamations, annexations and dissolutions, and sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers and "municipalities" in clause 14 (11) (*a*) of the *Municipal Act* includes, for the purposes of such clause, the area municipalities to which territory is annexed. 1974, c. 57, s. 2 (2, 3).

Composition of area municipal councils

3.—(1) The council of each area municipality shall be composed of a mayor, who shall be elected by a general vote of the electors of the area municipality and shall be the head of the council, and the following number of other members of council:

1. The City of Woodstock—eight members, five of whom shall be elected by a general vote of the electors of the area municipality as members of the council of the area municipality and of the County Council, and three of whom shall be elected by a general vote of the electors as members of the council of the area municipality.

2. The Town of Ingersoll—six members, one of whom shall be elected by a general vote of the electors of the area municipality as a member of the council of the area municipality and of the County Council, and five members elected by a general vote of the electors as members of the council of the area municipality.

3. The Town of Tillsonburg—eight members, one of whom shall be elected by a general vote of the electors of the area municipality as a member of the council of the area municipality and of the County Council, and seven members elected by a general vote of the electors as members of the council of the area municipality.

4. The Township of Blandford-Blenheim—six members, one of whom shall be elected by a general vote of

the electors of the area municipality as a member of the council of the area municipality and of the County Council, and five members elected by wards as members of the council of the area municipality.

5. The Township of East Zorra-Tavistock—eight members, one of whom shall be elected by a general vote of the electors of the area municipality as a member of the council of the area municipality and of the County Council, and seven members elected by wards as members of the council of the area municipality.

6. The Township of Zorra—ten members, one of whom shall be elected by a general vote of the electors of the area municipality as a member of the council of the area municipality and of the County Council, and nine members elected by wards as members of the council of the area municipality.

7. The Township of Norwich—ten members, one of whom shall be elected by a general vote of the electors of the area municipality as a member of the council of the area municipality and of the County Council, and nine members elected by wards as members of the council of the area municipality.

8. The Township of South-West Oxford—eight members, one of whom shall be elected by a general vote of the electors of the area municipality as a member of the council of the area municipality and of the County Council, and seven members elected by wards as members of the council of the area municipality. 1974, c. 57, s. 3 (1); 1980, c. 32, s. 1.

Where acclamation or equality of votes

(2) If, after any election in an area municipality, by reason of acclamation or equality of votes, it cannot be determined which councillor or councillors is, or are, entitled to be a member or members of the County Council, the matter shall be determined by resolution of the council of the area municipality passed before the organization meeting of the County Council. 1979, c. 69, s. 1 (1), *part*.

Amalgamation of wards, etc., by O.M.B.

(3) Notwithstanding the provisions of this or any other Act, upon the application of an area municipality authorized by a by-law of the council thereof, or upon the petition of electors in accordance with the provisions of section 13 of the *Municipal Act*, the Municipal Board may, by order,

R.S.O. 1980, c. 302

(*a*) divide or redivide the area municipality into wards, and shall designate the name or number each ward shall bear and shall declare the date when the division or redivision shall take effect;

(*b*) alter or dissolve any or all of the wards in the area municipality and shall declare the date when such alterations or dissolutions shall take effect; or

(*c*) vary the composition of the council of the area municipality,

provided that,

(*d*) no order made under this section shall alter the total number of members who represent the area municipality on the County Council as provided for in this Act; and

(*e*) the mayor of the area municipality shall continue to be elected by a general vote of the electors of the area municipality, and shall be the head of council of the area municipality, and shall be a member of the County Council, as provided for in this Act. 1976, c. 73, s. 1.

Order of L. G. in C.

(4) Notwithstanding section 8, the Lieutenant Governor in Council, upon the recommendation of the Minister, may, by order authorize such method of selecting the members who represent the area municipality on the County Council as is considered advisable following an order of the Municipal Board under subsection (3). 1977, c. 36, s. 1.

Stay of proceedings pending completion of inquiry

4. Where the Minister is inquiring into the structure, organization and methods of operation of one or more area municipalities or the County, the Minister may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications and any petition or petitions made under subsection 3 (3) should be deferred until the inquiry had been completed and considered, and thereupon all proceedings in any such application are stayed until the Minister gives notice to the Municipal Board that they may be continued. 1980, c. 32, s. 2.

No Board of Control

5. No area municipality shall have a Board of Control. 1974, c. 57, s. 5.

PART II

ESTABLISHMENT OF THE COUNTY COUNCIL

County continued

6.—(1) The County of Oxford is continued and on and after the 1st day of January, 1975 shall exercise the powers and duties and be subject to the obligations and liabilities provided for in this Act. 1974, c. 57, s. 6 (1).

Deemed municipality under R.S.O. 1980, cc. 303, 347

(2) The County, on and after the 1st day of January, 1975, shall be deemed to be a municipality for the purposes of the *Municipal Affairs Act* and the *Ontario Municipal Board Act*.

Minister's authority

(3) The Minister may by order deem the County to be a regional municipality for the purposes of any general or special Act.

County deemed not municipality for purposes of R.S.O. 1980, c. 302

(4) The County shall not, except as provided for in this Act, be a municipality for the purposes of the *Municipal Act* on and after the 1st day of January, 1975. 1974, c. 57, s. 6 (4-6).

County Council to exercise corporate powers

7.—(1) The powers of the County shall be exercised by the County Council and, except where otherwise provided, the jurisdiction of the County Council is confined to the County.

Powers exercised by by-law

(2) Except where otherwise provided, the powers of the County Council shall be exercised by by-law.

Not to be quashed as unreasonable

(3) A by-law passed by the County Council in the exercise of any of its powers and in good faith shall not be open to question, or be quashed, set aside or declared invalid either wholly or partly, on account of the unreasonableness or the supposed unreasonableness of its provisions or any of them. 1974, c. 57, s. 7.

Composition of County Council

8.—(1) The County Council shall comprise twenty members consisting of,

(*a*) the mayor of each area municipality;

(*b*) five members of council of the City of Woodstock elected as members of the County Council under section 3; and

(*c*) one member of council of each area municipality, except the City of Woodstock, elected as members of the County Council under section 3. 1974, c. 57, s. 8 (1).

Term of office

(2) The term of office of the County Council shall be two years. 1974, c. 57, s. 8 (3).

Election of warden

9.—(1) At the first meeting of the County Council after a regular election at which a quorum is present, the County Council shall organize as a council and elect from among its members a warden who shall hold office for that term of the council and until his successor is elected, and at such meeting the clerk shall preside until the warden is elected, and the warden so elected shall retain his seat on the council of the area municipality to which he was elected. 1978, c. 36, s. 3 (1).

Idem

(2) At the first meeting of the County Council in any year at which the warden is to be elected, the Council shall conduct a draw by lot to determine the area municipality which shall cast the additional vote in the event of a tie to elect the warden. 1974, c. 57, s. 9 (3).

Failure to elect warden

(3) If, at the first meeting of the County Council after a regular election, a warden is not elected, the presiding officer may adjourn the meeting from time to time, and, if a warden is not elected at any adjourned meeting held within one week after the first meeting, the Lieutenant Governor in Council shall appoint a warden to hold office for the term of the council and until his successor is elected in accordance with this Act. 1978, c. 36, s. 3 (2).

First meeting of area councils

10.—(1) Notwithstanding any other general or special Act, the first meeting of the council of each area municipality after a regular election shall be held not later than the seventh day following the day on which the term of office in respect of which the election was held commences.

First meeting of County Council

(2) The first meeting of the County Council after a regular election shall be held after the councils of the area municipalities have held their first meetings under subsection (1), but in any event not later than the fourteenth day following the day on which the term of office in respect of which the election was held commences, on such date and at such time and place as may be fixed by by-law of the County Council. 1978, c. 36, s. 4.

Oath of allegiance and declaration of qualification

(3) The warden, before taking his seat, shall take an oath of allegiance in Form 1 and a declaration of qualification in Form 2.

Declaration of office

(4) No business shall be proceeded with at the first meeting of the County Council until after the declarations of office in Form 3 of the *Municipal Act* have been made by all members who present themselves for that purpose.

R.S.O. 1980, c. 302

When County Council deemed organized

(5) The County Council shall be deemed to be organized when the declarations of office have been made by a sufficient number of members to form a quorum as provided for in section 11. 1974, c. 57, s. 10 (2-4).

Quorum, voting

11.—(1) Eleven members of the County Council representing four area municipalities are necessary to form a quorum and the concurring votes of a majority of members present are necessary to carry any resolution or other measure.

One vote

(2) Each member of the County Council has one vote only. 1974, c. 57, s. 11.

Place of meeting

12. Subject to section 10, all meetings of the County Council shall be held at such place within the County and at such times as the County Council from time to time appoints. 1974, c. 57, s. 12.

Vacancies, warden

13.—(1) When a vacancy occurs in the office of a warden who has been elected under subsection 9 (1), the County Council shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a warden who shall be a member of the County Council, to hold office for the remainder of the term of his predecessor.

Idem

(2) If the County Council fails to elect a warden within twenty days as required by subsection (1), the Lieutenant Governor in Council may appoint a person as warden to hold office for the remainder of the term of his predecessor. 1974, c. 57, s. 13 (1, 2).

Other members

(3) When a vacancy occurs in the office of a member, other than the warden or the head of the council of an area municipality, the council of the area municipality of which he was a member shall by by-law within sixty days after the vacancy occurs appoint a successor, who may be a member of the council, to hold office for the remainder of the term of his predecessor. 1974, c. 57, s. 13 (3); 1976, c. 73, s. 2.

Where head of council incapacitated

(4) In the event that the head of the council of an area municipality is for any reason unable to fulfil his duties as a member of the County Council for a period exceeding one month, the council of the area municipality may by by-law appoint one of its members as an alternate representative to the County Council who shall act in the place and stead of the head of council during his incapacity but no such by-law shall have effect for a period longer than one month from its effective date. 1974, c. 57, s. 13 (4).

Committees

14. The County Council may from time to time establish such standing or other committees and assign to them such duties as it considers expedient. 1974, c. 57, s. 15 (1).

Procedural by-laws

15. The County Council may pass by-laws for governing the proceedings of the County Council and any of its

committees, the conduct of its members and the calling of meetings. 1974, c. 57, s. 16.

Head of County Council

16.—(1) The warden is the head of the County Council and is the chief executive officer of the County.

Chief administrative officer

(2) The County Council may by by-law appoint a chief administrative officer, who,

(*a*) shall have such general control and management of the administration of the government and affairs of the County and perform such duties as the County Council by by-law prescribes;

(*b*) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;

(*c*) shall hold office during the pleasure of the County Council; and

(*d*) shall receive such salary as the County Council by by-law determines.

Application of R.S.O. 1980, c. 302

(3) Subsection 99 (2) of the *Municipal Act* applies to a chief administrative officer appointed under subsection (2) of this section. 1974, c. 57, s. 17.

Acting warden

17.—(1) When the warden is absent or refuses to act, or his office is vacant, the County Council may by resolution appoint one of its members to act in his place and stead and, while so acting, such member has and may exercise all the rights, powers and authority of the warden.

Idem

(2) The County Council may by by-law appoint a member of the County Council to act from time to time in the place and stead of the warden when the warden is absent from the County or absent through illness or his office is vacant and, while so acting, such member has and may exercise all the rights, powers and authority of the warden. 1974, c. 118, s. 1.

Application of R.S.O. 1980, c. 302

18.—(1) Sections 57, 58, 60, 62, 63, 129, 137 to 141 and 247 of the *Municipal Act* apply with necessary modifications to the County.

Idem

(2) Sections 55, 64, 65 and 107 of the *Municipal Act* apply with necessary modifications to the County Council and to every local board of the County. 1974, c. 57, s. 19.

Application of R.S.O. 1980, c. 302

(3) Sections 238, 239, 240 to 244, 247, 248, 249 and 250 of the *Municipal Act* apply with necessary modifications to the County Council. 1980, c. 32, s. 3.

Appointment of clerk

19.—(1) The County Council shall appoint a clerk whose duty it is,

(*a*) to record truly, without note or comment, all resolutions, decisions and other proceedings of the County Council;

(*b*) if required by any member present, to record the name and vote of every member voting on any matter or question;

(*c*) to keep in his office, or in the place appointed for that purpose, the originals of all by-laws and of all minutes of the proceedings of the County Council and its committees; and

(*d*) to perform such other duties as may be assigned to him by the County Council.

Deputy clerk

(2) The County Council may appoint a deputy clerk who shall have all the powers and duties of the clerk.

Acting clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties through illness or otherwise, the County Council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk. 1974, c. 57, s. 20.

Minutes open to inspection

20.—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents in the possession or under the control of the clerk, except interdepartmental correspondence and reports of officials of any department or of solicitors for the County made to the County Council or any of its committees, and the clerk within a reasonable time shall furnish copies of them or extracts therefrom certified under his hand and the seal of the County to any applicant on payment at the rate of 15 cents for every 100 words or at such lower rate as the County Council may fix.

Index of by-laws affecting land

(2) The clerk shall keep an index book in which he shall enter the number and date of all by-laws passed by the County Council that affect land or the use thereof in the County but do not directly affect the title to land.

Copies certified by clerk to be receivable in evidence

(3) A copy of any record, book or document in the possession or under the control of the clerk, purporting to be

certified under his hand and the seal of the County, may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. 1974, c. 57, s. 21.

Appointment of treasurer

21.—(1) The County Council shall appoint a treasurer who shall keep the books, records and accounts, and prepare the annual financial statements of the County and preserve and file all accounts of the County and shall perform such other duties as may be assigned to him by the County Council.

Deputy treasurer

(2) The County Council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer.

Acting treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties, through illness or otherwise, the County Council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer. 1974, c. 57, s. 22.

Receipt and disbursement of money

22.—(1) The treasurer shall receive and safely keep all moneys of the County and shall pay out money to such persons and in such manner as the law in force in Ontario and the by-laws or resolutions of the County Council direct, provided that every cheque issued by the treasurer shall be signed by the treasurer and by some other person or persons designated for the purpose by by-law or resolution of the County Council, and any such other person before signing a cheque shall satisfy himself that the issue thereof is authorized.

Signing of cheques

(2) Notwithstanding subsection (1), the County Council may by by-law,

(*a*) designate one or more persons to sign cheques in lieu of the treasurer; and

(*b*) provide that the signature of the treasurer and of any other person authorized to sign cheques may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques.

Petty cash fund

(3) The County Council may by by-law provide that the treasurer may establish and maintain a petty cash fund of an amount of money sufficient to make change and pay small accounts, subject to such terms and conditions as the by-law may provide.

When member may be paid

(4) Except where otherwise expressly provided by this Act, a member of the County Council shall not receive any money from the treasurer for any work or service performed or to be performed but nothing in this subsection prevents the payment of any moneys under any contract in respect of which the member has complied with the *Municipal Conflict of Interest Act*.

R.S.O. 1980, c. 305

Treasurer's liability limited

(5) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the County Council, unless another disposition of it is expressly provided for by statute. 1974, c. 57, s. 23.

Bank accounts

23. Subject to subsection 22 (3), the treasurer shall,

(*a*) open an account or accounts in the name of the County in such of the chartered banks of Canada or at such other place of deposit as may be approved by the County Council;

(*b*) deposit all money received by him on account of the County, and no other money, to the credit of such account or accounts, and no other account; and

(*c*) keep the money of the County entirely separate from his own money and from that of any other person,

and notwithstanding subsection 22 (1), the County Council shall not by by-law or resolution direct any variance from the provisions of this section, nor shall the treasurer vary from such provisions. 1974, c. 57, s. 24.

Monthly statement

24.—(1) The treasurer shall prepare and submit to the County Council, monthly, a statement of the money at the credit of the County.

Notice to sureties

(2) Where the treasurer is removed from office or absconds, the County Council shall forthwith give notice to his sureties. 1974, c. 57, s. 25.

Appointment of auditors

25.—(1) The County Council shall by by-law appoint one or more auditors who shall be persons licensed by the Ministry as municipal auditors and who shall hold office during good behaviour and be removable for cause by the County Council and the auditor or auditors so appointed shall audit the

accounts and transactions of the County and of every local board of the County, except school boards. 1977, c. 36, s. 2.

Cost of audit

(2) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the County and charged back to the local board, and, in the event of a dispute as to the amount of the cost, the Ministry may upon application finally determine the amount thereof. 1974, c. 57, s. 26 (2).

Disqualification of auditors

(3) No person shall be appointed as an auditor of the County who is or during the preceding year was a member of the County Council or of the council of an area municipality or of any local board, the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the County or an area municipality, or any such local board, or any employment with any of them other than for services within his professional capacity. 1974, c. 57, s. 26 (3); 1976, c. 73, s. 3.

Duties of auditors

(4) An auditor shall perform such duties as are prescribed by the Ministry and also such duties as may be required by the County Council or any local board of the County that do not conflict with the duties prescribed by the Ministry. 1974, c. 57, s. 26 (4).

Pensions

26.—(1) Where the County or a local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the County, the County or local board shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 28th day of June, 1974 in respect of the employee if such employee was or was entitled to be a member of the Ontario Municipal Employees Retirement System on the day immediately preceding his employment with the County or local board thereof and such employee shall have uninterrupted membership or entitlement to membership, as the case may be, in the Ontario Municipal Employees Retirement System and be deemed not to have resigned from his previous employment.

Idem

(2) Where the County or a local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the County, the employee shall be deemed to remain an employee of the local municipality or local board thereof for the purposes of his entitlement under any approved pension plan or supplementary plan.

Sick leave credits

(3) Where the County or a local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the County, the employee shall be deemed to remain an employee of the municipality or local board thereof until the County or local board thereof has established a sick leave credit plan for its employees, and the employees are entitled to receive such benefits from the County whereupon the County or local board thereof shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the municipality or local board thereof.

Holidays

(4) Where the County or a local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the County or local board thereof, the County or local board thereof shall during the first year of his employment by the County or local board thereof, provide for such employee's holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the municipality or local board thereof.

Offer of employment

(5) The County shall offer to employ every person who, on the 1st day of April, 1974, is employed in any undertaking of, or operated on behalf of, any local municipality or local board that is assumed by the County under this Act and who continues to be so employed until the 31st day of December, 1974. 1974, c. 57, s. 27 (1-5).

Application of R.S.O. 1980, c. 348

(6) The County shall be deemed to be a municipality for the purposes of the *Ontario Municipal Employees Retirement System Act*.

Placement of staff

(7) The Minister may by order do all such things as may be necessary to facilitate the placement of staff in the structure of both the County and area municipalities including providing for the protection of pension benefits, sick leave credits and holiday entitlements.

Pension rights and sick leave credits

(8) Where under the provisions of this section any employee in the opinion of the Minister experiences any difficulty or hardship with regard to the transfer of any pension rights or sick leave credits, the Minister may by order do anything necessary to remedy or alleviate such difficulty or hardship.

Termination of employment

(9) Nothing in this section prevents any employer from terminating the employment of an employee for cause. 1974, c. 57, s. 27 (7-10).

PART III

COUNTY ROAD SYSTEM

27. In this Part, Interpretation

(*a*) "approved" means approved by the Minister or of a type approved by the Minister;

(*b*) "construction" includes reconstruction;

(*c*) "maintenance" includes repairs;

(*d*) "Minister" means the Minister of Transportation and Communications;

(*e*) "Ministry" means the Ministry of Transportation and Communications;

(*f*) "road authority" means a body having jurisdiction and control of a highway. 1974, c. 57, s. 28.

28.—(1) On and after the 1st day of January, 1975, all roads on the 31st day of December, 1974, under the jurisdiction and control of the County shall continue to form part of the county road system, together with those roads which on the 31st day of December, 1974, are under the jurisdiction and control of the Woodstock Suburban Roads Commission and the Ingersoll Suburban Roads Commission. County road system

(2) The County Council may by by-law from time to time add roads to or remove roads from the county road system, including such boundary line roads or portions thereof between the County and an adjoining county or regional municipality as may be agreed upon between the County Council and the council of such adjoining municipality. Adding or removing roads by by-law

(3) The Lieutenant Governor in Council may transfer any highway under the jurisdiction and control of the Ministry within the County to the County and the highway shall for all purposes be deemed to be part of the county road system on such date as is designated by the Lieutenant Governor in Council and to have been transferred under section 29 of the *Public Transportation and Highway Improvement Act*. Transfer of provincial highway to County R.S.O. 1980, c. 421

(4) Where a road or part thereof forms part of the county road system, jurisdiction and control and the soil and freehold thereof are vested in the County. Vesting of roads in County

Removal of roads from county road system

(5) The Lieutenant Governor in Council may remove any road from the county road system.

Roads removed from system

(6) Where a road or a part thereof is removed from the county road system, except by reason of it being stopped-up pursuant to subsection 38 (1), such road or part is thereupon transferred to and the jurisdiction and control and the soil and freehold thereof is thereupon vested in the area municipality in which it is situate, and the area municipality may sue upon any rights or under any agreements or by-laws in the same manner and to the same extent as the County in respect of such road.

Status of land acquired for for widening county road

(7) Notwithstanding subsection (10), where the County acquires land for the purpose of widening a county road, the land so acquired, to the extent of the designated widening, forms part of the road and is included in the county road system.

Idem

(8) When land abutting on a county road is dedicated for, or apparently for, widening the county road, the land so dedicated is part of the county road and the jurisdiction and control and the soil and freehold thereof is vested in the County subject to any rights in the soil reserved by the person who dedicated the land. 1974, c. 57, s. 29 (1-8).

Consolidating by-law

(9) The County Council shall, from time to time, pass a by-law consolidating all by-laws relating to the county road system. 1980, c. 32, s. 4.

Approval of by-laws

(10) Every by-law passed under this section shall be submitted to the Minister for approval by the Lieutenant Governor in Council and the Lieutenant Governor in Council may approve the by-law in whole or in part and, where the by-law is approved in part only, it shall be in force and take effect only so far as approved, but it shall not be necessary for the County Council to pass any further by-law amending the original by-law or repealing any part thereof that has not been approved, and every such by-law as approved is in force and effect after the day named by the Lieutenant Governor in Council.

R.S.O. 1980, c. 446 not to apply

(11) The *Regulations Act* does not apply to an order in council made under this section. 1974, c. 57, s. 29 (10, 11).

Plans of construction and maintenance

29. The County Council shall adopt a plan of road construction and maintenance, and from time to time thereafter

shall adopt such other plans as may be necessary. 1974, c. 57, s. 30.

Furnishing of information to Minister

30. Where the County proposes the construction, improvement or alteration of a county road, it shall furnish the Minister with such detailed information as he may require. 1974, c. 57, s. 31.

Contribution towards expenditures

31. Where a contribution has been made from any source whatsoever towards an expenditure made under the provisions of section 89 of the *Public Transportation and Highway Improvement Act*, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1974, c. 57, s. 32.

R.S.O. 1980, c. 421

Maintenance and repair

32. The roads included in the county road system shall be maintained and kept in repair by the County. 1974, c. 57, s. 33.

Power over roads assumed

33. The County has, in respect of the roads included in the county road system, all the rights, powers, benefits, and advantages conferred, and is subject to all liabilities imposed, either by statute, by-law, contract or otherwise upon the Woodstock Suburban Roads Commission and the Ingersoll Suburban Roads Commission and the County may sue upon such rights or under such contracts or by-laws in the same manner and to the same extent as the Woodstock Suburban Roads Commission or the Ingersoll Suburban Roads Commission, as the case may be, might have done if the roads had not become part of the county road system. 1974, c. 57, s. 34.

Sidewalks excepted

34.—(1) The County is not by reason of a road forming part of the county road system under this Act liable for the construction or maintenance of sidewalks on any road or portion thereof in the county road system, but the area municipality in which such sidewalks are located continues to be liable for the maintenance of such sidewalks and is responsible for any injury or damage arising from the construction or presence of the sidewalks on such road or portion thereof to the same extent and subject to the same limitations to which an area municipality is liable under section 284 of the *Municipal Act* in respect of a sidewalk on a road over which a council has jurisdiction.

R.S.O. 1980, c. 302

Area municipalities may construct sidewalks, etc.

(2) An area municipality may construct a sidewalk or other improvement or service on a county road, and the County may contribute to the cost of such sidewalk, improve-

ment or service, but no such work shall be undertaken by an area municipality without first obtaining the approval of the County Council expressed by resolution.

How cost provided

(3) The cost of any such sidewalk, improvement or service constructed on a county road may be met out of the general funds of the area municipality or the work may be undertaken in whole or in part as a local improvement under the *Local Improvement Act*.

R.S.O. 1980, c. 250

Area municipality to conform to requirements and be responsible for damage

(4) An area municipality when constructing such a sidewalk, improvement or service on a county road shall conform to any requirements or conditions imposed by the County Council and is responsible for any injury or damage arising from the construction or presence of the sidewalk, improvement or service on the road. 1974, c. 57, s. 35.

Installation of traffic control devices

35.—(1) The County may construct, install, maintain or remove any works on a highway, other than a road under the jurisdiction and control of the Ministry, including traffic control devices, for the purpose of altering or regulating the flow of traffic upon entering or leaving a road in the county road system.

Relocation of intersecting roads

(2) The County may relocate, alter or divert any public road, other than a road under the jurisdiction and control of the Ministry, entering or touching upon or giving access to a road in the county road system.

Idem

(3) Where, in relocating, altering or diverting a public road under subsection (2), the County constructs a new road in lieu of the public road, the County may close the public road at the point of intersection with the county road and may, by by-law vest the new road and the soil and freehold and jurisdiction and control thereof in the area municipality in which it is situate.

Construction of sidewalk, etc., on area municipality road

(4) Where the County constructs a sidewalk, improvement or service on a road under the jurisdiction and control of an area municipality, the area municipality may contribute to the cost of such sidewalk, improvement or service and the work may be undertaken in whole or in part under the *Local Improvement Act*. 1974, c. 57, s. 36.

Intersection of other roads by county road

36. Where a county road intersects a road that is under the jurisdiction and control of an area municipality, the continuation of the county road to its full width across the road so intersected is a part of the county road system. 1974, c. 57, s. 37.

New roads

37. The County Council may pass by-laws for establishing and laying out new roads and for amending the by-law passed under section 28 by adding such new roads to the county road system, and the provisions of the *Municipal Act* with respect to the establishment and laying out of highways by municipalities apply with necessary modifications. 1974, c. 57, s. 38.

Powers and liabilities of County

38.—(1) With respect to the roads in the county road system and the regulation of traffic thereon, the County has all the powers conferred, and is subject to all the liabilities imposed, upon the council or corporation of a city by the *Municipal Act,* the *Highway Traffic Act* and any other Act with respect to highways.

R.S.O. 1980, cc. 302, 198

Establishment of bus lanes

(2) The County Council or the council of any area municipality may by by-law designate any lane on any road over which it has jurisdiction as a lane solely or principally for use by public transit motor vehicles and prohibit or regulate the use thereof by vehicles other than public transit vehicles to such extent and for such period or periods as may be specified, and for the purpose of this subsection, "public transit motor vehicle" means a motor vehicle owned and operated by, for or on behalf of the County or any area municipality as part of its passenger transportation service. 1974, c. 57, s. 39.

Erection of gasoline pump and advertising device near county road

39.—(1) The County Council may by by-law prohibit or regulate the placing or erecting of,

(*a*) any gasoline pump within forty-five metres of any limit of a county road;

(*b*) any sign, notice or advertising device within 400 metres of any limit of a county road. 1974, c. 57, s. 40 (1); 1978, c. 87, s. 35 (1).

Permits

(2) A by-law passed under this section may provide for the issuing of permits for the placing or erecting of any gasoline pump, sign, notice or advertising device and may prescribe the form, terms and conditions thereof and the fees to be paid therefor. 1974, c. 57, s. 40 (2).

By-laws of area municipalities regulating traffic

40.—(1) No by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality, except a by-law for the regulation of parking, shall come into force until it has been approved by the County Council. 1974, c. 57, s. 41 (1); 1976, c. 73, s. 4 (1).

County Council may approve by-law in whole or in part

(2) A by-law submitted for approval of the County Council in compliance with subsection (1) may be approved in whole or in part and, where part only of a by-law is approved, that part only shall become operative.

Withdrawal of approval

(3) The County Council may withdraw its approval to any by-law or any part thereof by notice sent by registered mail to the clerk of the area municipality and such by-law or part thereof shall be deemed to be repealed twenty-one days after the sending of the notice. 1976, c. 73, s. 4 (2).

Signal-light devices

(4) All signal-light traffic control devices heretofore or hereafter erected on a highway under the jurisdiction and control of an area municipality shall be operated, or erected and operated, in the manner prescribed by by-law of the County Council, and the County Council may delegate any of its powers in respect of the operation of such devices to an officer of the County designated in the by-law.

Contribution toward cost of signal-light

(5) The County may contribute toward the cost of the erection of signal-light traffic control devices erected by an area municipality. 1974, c. 57, s. 41 (2, 3).

Traffic control within thirty metres of county roads

R.S.O. 1980, c. 198

(6) Subject to the *Highway Traffic Act*, the County Council may pass by-laws to regulate traffic on any highway under the jurisdiction and control of an area municipality for a distance of thirty metres on either side of the limit of a county road and where there is any conflict between such a by-law and a by-law of an area municipality, the by-law passed under this subsection prevails to the extent of such conflict. 1974, c. 57, s. 41 (4); 1978, c. 87, s. 35 (2).

Agreements for pedestrian walks

41. The County Council may by by-law authorize agreements between the County and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highways upon such terms and conditions as may be agreed and for contributing to the whole or any part of the cost thereof, and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such considerations and upon such terms and conditions as may be agreed. 1974, c. 57, s. 42.

Disputes as to maintenance, etc., of bridges and highways

R.S.O. 1980, c. 302

42.—(1) Sections 292 and 294 of the *Municipal Act* do not apply to a bridge or highway crossing or forming a boundary between the County and an adjoining municipality where such bridge or highway is included in the county road system and in the road system of the municipality.

Idem

(2) Where there is a difference between the County Council and the council of a municipality in respect of any

such bridge or highway as to the corporation upon which the obligation rests for the constructing or maintaining of the bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the County Council and the council of the municipality are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Municipal Board upon an application by the County or the corporation of the municipality.

Hearing by O.M.B.

(3) The Municipal Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality and of the County, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities, in regard to such bridge or highway, and the Municipal Board may make such order with respect to the same as it may consider just and proper, and may by the order fix and determine the amount or proportion that each municipality shall pay or contribute toward the building and maintaining of such bridge or highway.

Term of order

(4) An order made by the Municipal Board under this section is binding upon the municipalities for such period as the Municipal Board may determine, and is final and conclusive. 1974, c. 57, s. 43.

Boundary bridges between area municipalities

R.S.O. 1980, c. 302

43. Clause 261 (1) (*b*) of the *Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between area municipalities, and the councils of the area municipalities on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the county road system. 1974, c. 57, s. 44.

Boundary bridges between County and ajoining municipalities

44. Section 276 of the *Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between the County and an adjoining municipality, and the councils of the area municipality and the adjoining local municipality on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the county road system. 1974, c. 57, s. 45.

Restrictions

R.S.O. 1980, c. 379

45.—(1) The County Council has, with respect to all land lying within a distance of forty-five metres from any limit of a county road, all the powers conferred on the council of a local municipality by section 39 of the *Planning Act*. 1974, c. 57, s. 46 (1); 1978, c. 87, s. 35 (3).

Conflict with local by-laws

R.S.O. 1980, c. 379

(2) In the event of conflict between a by-law passed under subsection (1) by the County Council and a by-law passed under section 39 of the *Planning Act* or a predecessor of such section by the council of a local municipality that is in force in the area municipality in which the land is situate, the by-law passed by the County Council prevails to the extent of such conflict. 1974, c. 57, s. 46 (2).

Controlled-access roads

46.—(1) The County Council may by by-law designate any road in the county road system, or any portion thereof, as a controlled-access road.

Closing municipal roads

(2) Subject to the approval of the Municipal Board, the County Council may by by-law close any municipal road that intersects or runs into a county controlled-access road.

Notice of application for approval for closing road

(3) The Municipal Board may direct that notice of any application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons as the Municipal Board may determine, and may further direct that particulars of objections to the closing shall be filed with the Municipal Board and the County within such time as the Municipal Board shall direct.

Order of O.M.B.

(4) Upon the hearing of the application for approval of the closing of a road, the Municipal Board may make such order as it considers proper refusing its approval or granting its approval upon such terms and conditions as it considers proper, and any order of the Municipal Board approving of the closing of a road may contain provisions,

(*a*) determining the portion or portions of the road that shall be closed;

(*b*) providing for the payment of the costs of any person appearing on such application and fixing the amount of such costs; and

(*c*) providing for the doing of such other acts as in the circumstances it considers proper.

Closing road

(5) Upon the approval of the Municipal Board being so obtained but subject to the provisions of the order of the Municipal Board made on the application for such approval the County may do all such acts as may be necessary to close the road in respect of which the application is made.

Appeal

(6) The County, or any person including an area municipality, that has filed particulars of an objection may, with the leave of the Divisional Court, appeal to that court from any order made under subsection (4).

(7) Application for leave to appeal shall be made within thirty days after the date of the determination or order of the Municipal Board subject to the rules of the court as to vacations. Time for appeal

(8) The leave may be granted on such terms as to the giving of security for costs and otherwise as the court may consider just. Leave to appeal

(9) The practice and procedure as to the appeal and matters incidental thereto shall be in accordance with the rules of court and the decision of the Divisional Court is final. Practice and procedure on appeal

(10) Section 95 of the *Ontario Municipal Board Act* does not apply to an appeal under this section. 1974, c. 57, s. 47. R.S.O. 1980, c. 347, s. 95 not to apply

47. The County Council may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, structure or facility as a means of access to a county controlled-access road. 1974, c. 57, s. 48. Private roads, etc., opening upon county controlled-access road

48.—(1) The County may give notice to the owner of any land requiring him to close up any private road, entranceway, structure or facility constructed or used as a means of access to a county controlled-access road in contravention of a by-law passed under section 47. Notice

(2) Every notice given under subsection (1) shall be in writing and shall be served personally or by registered mail, and in the case of service by registered mail shall be deemed to have been received on the fifth day following the mailing thereof. Service of notice

(3) Where the person to whom notice is given under subsection (1) fails to comply with the notice within thirty days after its receipt, the County Council may by resolution direct any officer, employee or agent of the County to enter upon the land of such person and do or cause to be done whatever may be necessary to close up the private road, entranceway, structure or facility as required by the notice. Failure to comply with notice

(4) Every person who fails to comply with a notice given under subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $100 for a first offence and to a fine of not less than $50 and not more than $500 for a second or subsequent offence. Offence

(5) Where a notice given under subsection (1) has been complied with, no compensation is payable to the owner of the land unless the private road, entranceway, structure Compensation

or facility constructed or used as a means of access to a controlled-access road designated under subsection 46 (1) was constructed or used, as the case may be,

(*a*) before the day on which the by-law designating the road as a controlled-access road became effective; or

(*b*) in compliance with a by-law passed under section 47, in which case the making of compensation is subject to any provisions of such by-law. 1974, c. 57, s. 49.

County liability where road forms part of system

49.—(1) Subject to subsection (2), no area municipality shall have any right to compensation or damages for any road forming part of the county road system.

Idem

(2) Where a road forms part of the county road system, the County shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of the area municipality in respect of such road, but nothing in this subsection requires the County to pay that portion of the amounts of principal and interest that under the *Local Improvement Act* is payable as the owners' share of a local improvement work. 1974, c. 57, s. 50 (1, 2).

R.S.O. 1980, c. 250

Default

(3) Where the County fails to make any payment required by subsection (2), the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made. 1979, c. 69, s. 3.

Settling of doubts

(4) In the event of any doubt as to whether any outstanding debt or portion thereof is a debt in respect of the road forming part of the county road system, the Municipal Board, upon application, may determine the matter and its decision is final. 1974, c. 57, s. 50 (4).

Stopping-up highways

50.—(1) Where an area municipality intends to stop up a highway or part of a highway, it shall so notify the County by registered mail.

Agreement

(2) If the County objects to such stopping up, it shall notify the council of the area municipality by registered mail within sixty days of the receipt of the notice required under subsection (1) and the highway or part thereof shall not be stopped-up except by agreement between the area municipality and the County Council and failing agreement the Municipal Board, upon application, may determine the matter and its decision is final. 1974, c. 57, s. 51.

51. Subsection 46 (1) of the *Public Transportation and Highway Improvement Act* does not apply to the County. 1976, c. 73, s. 5. R.S.O. 1980, c. 421, s. 46 (1) not to apply

52. Sections 101, 103, 105, 108 and 111 of the *Public Transportation and Highway Improvement Act* apply with necessary modifications with respect to any road in the county road system. 1974, c. 57, s. 53. Application of R.S.O. 1980, c. 421

PART IV

MUNICIPAL HYDRO-ELECTRIC SERVICE

53. In this Part, Interpretation

(*a*) "accumulated net retail equity" means the portion of the equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for rural retail customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;

(*b*) "electrical service area" means an area supplied with retail power by a commission referred to in section 54;

(*c*) "hydro-electric commission" means,

(i) a hydro-electric commission or public utility commission or public utilities commission entrusted with the control and management of works for the retail supply of power and established or deemed to be established under Part III of the *Public Utilities Act*, and R.S.O. 1980, c. 423

(ii) a committee of the council of a municipality entrusted with the control and management of works for the retail supply of power on the 31st day of December, 1974;

(*d*) "power" means electrical power and includes electrical energy;

(*e*) "regulations" means the regulations made under this Part;

(*f*) "retail distribution facilities" means works for the transmission and supply of power at voltages less

than 50 kilovolts other than works located within a transformer station that transforms power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts. 1977, c. 60, s. 1, *revised*.

Commissions continued

1977, c. 60

R.S.O. 1980, cc. 423, 384

54.—(1) The hydro-electric commission for each of the City of Woodstock, the Town of Ingersoll, the Town of Tillsonburg, the Township of Blandford-Blenheim, the Township of East Zorra-Tavistock, the Township of Norwich, the Township of South-West Oxford and the Township of Zorra established by *The Oxford Municipal Hydro-Electric Service Act, 1977* is continued and each commission shall be deemed to be a commission established under Part III of the *Public Utilities Act,* and a municipal commission within the meaning of the *Power Corporation Act*.

Composition, Woodstock Public Utility Commission

R.S.O. 1980, c. 308

(2) The commission for the City of Woodstock shall be known as the Woodstock Public Utility Commission and shall consist of the mayor of the City of Woodstock and four additional members who are qualified electors under the *Municipal Elections Act* in the City of Woodstock.

Idem, Ingersoll Public Utility Commission

(3) The commission for the Town of Ingersoll shall be known as the Ingersoll Public Utility Commission and shall consist of the mayor of the Town of Ingersoll and four additional members who are qualified electors under the *Municipal Elections Act* in the Town of Ingersoll.

Idem, Tillsonburg Public Utility Commission

(4) The commission for the Town of Tillsonburg shall be known as the Tillsonburg Public Utility Commission and shall consist of the mayor of the Town of Tillsonburg and four additional members who are qualified electors under the *Municipal Elections Act* in the Town of Tillsonburg.

Idem, Blandford-Blenheim Public Utility Commission

(5) The commission for the Township of Blandford-Blenheim shall be known as the Blandford-Blenheim Public Utility Commission and shall consist of the mayor of the Township of Blandford-Blenheim and four additional members who are qualified electors under the *Municipal Elections Act* in the Township of Blandford-Blenheim,

(*a*) one of whom is a customer of the commission in the electrical service area commonly known as Drumbo;

(*b*) one of whom is a customer of the commission in the electrical service area commonly known as Plattsville;

(*c*) one of whom is a customer of the commission in the electrical service area commonly known as Princeton; and

(*d*) one of whom is a customer of the commission in one of the electrical service areas commonly known as Drumbo, Plattsville and Princeton.

Idem, East Zorra-Tavistock Public Utility Commission

(6) The commission for the Township of East Zorra-Tavistock shall be known as the East Zorra-Tavistock Public Utility Commission and shall consist of the mayor of the Township of East Zorra-Tavistock and two additional members who are qualified electors under the *Municipal Elections Act* in the Township of East Zorra-Tavistock and who are customers of the commission.

R.S.O. 1980, c. 308

Idem, Norwich Public Utility Commission

(7) The commission for the Township of Norwich shall be known as the Norwich Public Utility Commission and shall consist of the mayor of the Township of Norwich and four additional members who are qualified electors under the *Municipal Elections Act* in the Township of Norwich.

(*a*) one of whom is a customer of the commission in the electrical service area commonly known as Burgessville;

(*b*) two of whom are customers of the commission in the electrical service area commonly known as Norwich; and

(*c*) one of whom is a customer of the commission in the electrical service area commonly known as Otterville.

Idem, South-West Oxford Public Utility Commission

(8) The commission for the Township of South-West Oxford shall be known as the South-West Oxford Public Utility Commission and shall consist of the mayor of the Township of South-West Oxford and two additional members who are qualified electors under the *Municipal Elections Act* in the Township of South-West Oxford and who are customers of the commission.

Idem, Zorra Public Utility Commission

(9) The commission for the Township of Zorra shall be known as the Zorra Public Utility Commission and shall consist of the mayor of the Township of Zorra and four additional members who are qualified electors under the *Municipal Elections Act* in the Township of Zorra,

(*a*) two of whom are customers of the commission in the electrical service area commonly known as Embro; and

(*b*) two of whom are customers of the commission in the electrical service area commonly known as Thamesford. 1977, c. 60, s. 2 (1-9).

Additional members of commissions

(10) The additional members of each commission shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1978, the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Eligibility of members of council

(11) Members of the council of an area municipality served by a commission may be appointed as members of the commission, but the members of the council shall not form a majority of the commission.

Term of office

(12) A member of a commission shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(13) The council of an area municipality served by a commission may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission. 1977, c. 60, s. 2 (12-15).

Resignation

(14) A resignation from the council of a member of a council who is a member of a commission shall be deemed to be a resignation from both the commission and the council. 1977, c. 60, s. 2 (17).

Powers of commissions R.S.O. 1980, c. 423

55.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by the *Public Utilities Act* on a municipal corporation with respect to power, shall, on and after the 1st day of April, 1978, be exercised on behalf of each area municipality by the commission established in respect of that area municipality and not by the council of any municipality or any other body.

Idem

(2) Subject to subsections (3) and (5) and to any subsisting contracts for the supply of power to customers within the meaning of section 37*a* of *The Ontario Energy Board Act*, being chapter 312 of the Revised Statutes of Ontario, 1970, on and after the 1st day of April, 1978, each commission has the sole right to supply power within the area municipality in respect of which it is established, and, on behalf of the area municipality, may contract with Ontario Hydro for the transmission and supply to the commission of power to be distributed and sold within the municipality, without electoral assent or other approval or authorization and such contract shall be deemed to be an agreement within the meaning of clause 149 (2) (*s*) of the *Municipal Act*.

R.S.O. 1980, c. 302

Where Ontario Hydro to continue to supply power

(3) Notwithstanding subsection (2), but subject to section 56, Ontario Hydro shall continue to supply power in those areas of the townships of Blandford-Blenheim, East Zorra-Tavistock, Norwich, South-West Oxford, and Zorra that it served immediately

before the 8th day of December, 1977, and subsections (8) and (9) and section 59 do not apply.

Application of R.S.O. 1980, c. 384

(4) Except where inconsistent with the provisions of this Part, the provisions of the *Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the supply of power to the municipal corporation apply to each of the commissions.

Direct customers

(5) With the consent of a commission, Ontario Hydro may supply power directly to customers within the municipality in respect of which the commission is established.

Transitional

(6) Such management and control of works for the distribution and supply of power within the area municipalities as are exercised by hydro-electric commissions and Ontario Hydro immediately before the 8th day of December, 1977, remain entrusted to them to and including the 31st day of March, 1978, but, subject to subsections (7) and (8), any of the assets, powers and responsibilities of such commissions may by agreement be transferred before that date to a commission referred to in section 54.

Transfer of assets and liabilities

(7) On the 1st day of April, 1978, all assets under the control and management of and all liabilities of hydro-electric commissions distributing and selling power in an area municipality to the extent that they pertain to the distribution and supply of power in the municipality, are, without compensation, assets under the control and management of and liabilities of the commission established in respect of the municipality.

Purchase of retail distribution facilities from Ontario Hydro

(8) Subject to subsections (3) and (5), section 56 and the regulations, each commission shall acquire, on behalf of the area municipality served by the commission, the retail distribution facilities within the municipality used by Ontario Hydro on the 31st day of March, 1978, in the retail distribution of power, including equipment leased by Ontario Hydro to retail customers within the municipality for the use of such power, and the price of the facilities shall be equal to the original cost of the facilities less the sum of the accumulated net retail equity of the customers supplied with power through the facilities and the accumulated depreciation associated with the facilities.

Where price to be determined by arbitration

R.S.O. 1980, c. 25

(9) If the price of the facilities referred to in subsection (8) has not been determined by the parties before the 1st day of July, 1978, the price shall be determined by arbitration by a single arbitrator pursuant to the *Arbitrations Act* in accordance with subsection (8) and the regulations, and the decision of the arbitrator shall not be subject to appeal.

Tillsonburg

(10) The references to the 1st day of April, 1978 in subsections (1), (2) and (7) and sections 59 and 60 shall be deemed to refer to the 1st day of January, 1978 and the references to the 31st day of March, 1978 in subsections (6) and (8) and section 59 shall be deemed to refer to the 31st day of December, 1977 both in respect of the Town of Tillsonburg. 1977, c. 60, s. 3.

Application of section

56.—(1) This section applies when retail power is supplied in any area municipality by both Ontario Hydro and a commission referred to in section 54.

Oxford Power Supply Review Committee

(2) At least once in every five years, there shall be appointed a committee to be known as the Oxford Power Supply Review Committee composed of eight members, one of whom shall be appointed by the council of each area municipality.

Duties

(3) The Committee shall review the retail supply of power in the County and shall include in its review an evaluation of,

(*a*) the supply of power throughout the County by a single hydro-electric commission; and

(*b*) the supply of power throughout an area municipality by a commission.

Report

(4) Each Committee shall complete its review within twelve months from the date that it is fully constituted and shall file its report forthwith with Ontario Hydro and send copies of the report to the clerk of the County, to the clerk of each area municipality and to each commission. 1977, c. 60, s. 4.

Vesting of real property

57.—(1) All real property transferred pursuant to section 55 to the control and management of a commission or otherwise acquired by or for the commission, shall be vested in the area municipality served by the commission.

Disposition of real property

(2) Where a commission is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to retain the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater and the area municipality may sell, lease or other-

wise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.

2. In the event that the area municipality served by the commission does not wish to retain the real property in accordance with paragraph 1, the area municipality shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality, and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor pursuant to this subsection shall be paid over to the commission and shall be applied in accordance with the *Public Utilities Act*. 1977, c. 60, s. 5. R.S.O. 1980, c. 423

58. Except as otherwise provided in this Act, sections 93 to 116 apply, with necessary modifications, to any borrowing for the purposes of a commission. 1977, c. 60, s. 6. Borrowing

59.—(1) In this section, "transfer date", when used in respect of an employee of a hydro-electric commission or Ontario Hydro, means the date on which a commission assumes liability for the payment of the wages or salary of the employee. Interpretation

(2) On or before the 31st day of March, 1978, each hydro-electric commission in the area municipalities and Ontario Hydro shall designate those of their full-time employees who were employed in the distribution and supply of power in the municipalities on the 1st day of March, 1977, and who continued such employment until the 31st day of March, 1978 or until their transfer dates, as the case may be, and the commissions established in respect of those municipalities shall offer employment to the employees so designated. Transfer of employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date. Wages or salaries

(4) Each commission shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 8th day of December, 1977, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and the *Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System. Participation in O.M.E.R.S. R.S.O. 1980, c. 348

Supplementary agreements

(5) Where a person who accepts employment under this section with a commission is entitled to the benefit of a supplementary agreement between a hydro-electric commission operating within an area municipality and the Ontario Municipal Employees Retirement Board immediately before his transfer date, the commission shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the hydro-electric commission.

Transfer of pension credits from Ontario Hydro plan

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension guarantee

(7) Notwithstanding subsection (5), a person who accepts employment under this section with a commission and who,

(*a*) was employed by Ontario Hydro immediately before his transfer date; and

(*b*) continues in the employment of the commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit to which he would have been entitled under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1977, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection (5) shall be apportioned and paid as provided by the regulations.

Group life insurance

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of

a common group life insurance plan covering all eligible employees of his new employer.

Idem

(9) On or before the 31st day of December, 1979, each commission shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the employee was entitled immediately before his transfer date.

Sick leave

(10) A person who accepts employment under this section shall continue to enjoy as a term of his employment the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners

(11) The commissions shall continue the provision of life insurance to pensioners formerly employed in the distribution and supply of power in the area municipalities by hydro-electric commissions.

Termination for cause

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances

(13) Where, under this section, an employee, in the opinion of the Minister, experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. 1977, c. 60, s. 7.

Dissolution of existing commissions 1974, c. 57

60. For the purposes of section 134 of *The County of Oxford Act, 1974*, the 1st day of April, 1978 is the date determined by the Minister in respect of all areas within the County, and on that date the municipal hydro-electric commissions supplying electrical power and energy in the County are dissolved and the by-laws establishing them passed pursuant to section 37 of the *Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required. 1977, c. 60, s. 8.

R.S.O. 1980, c. 423

Regulations

61. The Lieutenant Governor in Council may make regulations,

(*a*) for the purposes of subsection 55 (8) in respect of,

(i) the method of determining the original cost of the facilities or of any facility or of any part of any facility,

(ii) the allocation of the original cost of the facilities or of any facility or of any part of any facility,

(iii) the method of determining the amount of any component of the accumulated net retail equity,

(iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,

(v) the method of calculating accumulated depreciation or any component of accumulated depreciation,

(vi) the allocation of accumulated depreciation or any component of accumulated depreciation,

(vii) the method of payment of the price of the facilities;

(*b*) for the purposes of subsection 59 (7), in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof. 1977, c. 60, s. 9.

PART V

PLANNING

Planning area

62.—(1) On and after the 1st day of January, 1975, the County shall be a municipality and a planning area for the purposes of the *Planning Act* and shall be known as the Oxford Planning Area.

R.S.O. 1980, c. 379

Designated municipality

(2) The County Council shall be the Planning Board of the Oxford Planning Area and may be or may constitute or appoint a land division committee for the purpose of granting consents referred to in section 29 of the *Planning Act*. 1974, c. 57, s. 54 (1, 2).

Separate meeting as planning board not required

(3) Where the County Council meets in respect of matters pertaining to planning for the purposes of the *Planning Act*, no

separate meeting of the Council as a planning board is required. 1978, c. 36, s. 8.

(4) Notwithstanding subsection (2) of this section, subsection 12 (2) of the *Planning Act* does not apply to the County Council. 1979, c. 69, s. 4. R.S.O. 1980, c. 379, s. 12 (2) not to apply

(5) The County Council may appoint such advisory and planning committees as it deems necessary. 1974, c. 57, s. 54 (3). Advisory committees

63.—(1) All planning areas and subsidiary planning areas that are included in the Oxford Planning Area together with the boards thereof including the Oxford County Planning Board are dissolved on the 1st day of January, 1975, and no area municipality shall, except as provided in subsections (2), (3) and (4), exercise any powers under the *Planning Act*. Planning areas and subsidiary planning areas dissolved

(2) The land division committee constituted for the County of Oxford and all committees of adjustment heretofore constituted by the council of a municipality in the Oxford Planning Area are dissolved on the 1st day of January, 1975, and the council of each area municipality is deemed to be a committee of adjustment under section 48 of the *Planning Act,* but notwithstanding the provisions of such Act no such council shall have any authority to grant consents referred to in section 29 of such Act. 1974, c. 57, s. 55 (1, 2). Committees of adjustment

(3) The council of an area municipality may exercise the powers provided in section 22, except subsection (12), sections 24, 39, 40, 41, 42, 43, 44, 45, 46, and section 49, except subsection (3), of the *Planning Act,* but in the event that there is a conflict between a by-law passed by the County Council and a by-law passed by the council of an area municipality in the exercise of such powers the by-law passed by the County Council shall prevail. 1980, c. 32, s. 5. Powers under R.S.O. 1980, c. 379

(4) The County Council may delegate to the council of an area municipality any of its powers in respect of subdivision agreements. 1974, c. 57, s. 55 (5). Delegation of powers re subdivision agreements

64. The County Council, before the 31st day of December, 1978, shall prepare, adopt and forward to the Minister of Housing for approval an official plan for the County, and all existing official plans in the Oxford Planning Area shall be deemed to be official plans of the County. 1974, c. 57, s. 56. Offical plan

PART VI

HEALTH AND WELFARE SERVICES

Liability for hospitalization of indigents R.S.O. 1980, cc. 410, 389

65.—(1) The County shall be deemed to be a city for all the purposes of the provisions of the *Public Hospitals Act* and the *Private Hospitals Act* respecting hospitalization and burial of indigent persons and their dependants and no area municipality has any liability under such provisions.

Existing liabilities transferred

(2) The County is liable for the hospitalization and burial, after the 31st day of December, 1974, of an indigent person or his dependant who was in hospital on the 31st day of December, 1974, and in respect of whom any local municipality within the County was liable because the indigent person was a resident of such local municipality.

Proviso

(3) Nothing in subsection (2) relieves any such local municipality from any liability in respect of hospitalization or burials before the 1st day of January, 1975. 1974, c. 57, s. 57.

Aid to hospitals

66.—(1) The County may pass by-laws for granting aid for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on the business of public hospitals including municipal hospitals and other health care facilities in the County and may issue debentures therefor, and no area municipality shall exercise any such powers in respect of public hospitals including municipal hospitals. 1974, c. 57, s. 58 (1).

Payment of principal and interest to area municipalities

(2) The County shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality for the purposes mentioned in subsection (1) prior to the 1st day of January, 1975 and, if the County fails to pay such amounts before the due date, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made. 1979, c. 69, s. 5.

Hospital costs form part of County levy

(3) Notwithstanding the provisions of any general or special Act, payments made under this section shall form part of the levy under section 86. 1974, c. 57, s. 58 (3).

Health unit continued

67.—(1) The health unit serving the County on the 31st day of December, 1974, is continued under the name of the Oxford County Board of Health on and after the 1st day of January, 1975.

(2) Notwithstanding the provisions of any other Act, the boundaries of the health unit of the County shall not be altered except by order of the Minister of Health. 1974, c. 57, s. 59. Boundaries fixed

68.—(1) On and after the 1st day of January, 1975, the Oxford County Board of Health shall be composed of, Constitution of health board

(*a*) not more than seven members of the County Council appointed by the County Council; and

(*b*) not more than three persons appointed by the Lieutenant Governor in Council upon the recommendation of the Minister of Health. 1974, c. 57, s. 60 (1).

(2) Notwithstanding the provisions of any other Act, the expenses incurred by the Oxford County Board of Health in establishing and maintaining the health unit and performing its functions under the *Public Health Act* or any other Act shall be accounted for, borne and paid by the County. 1974, c. 57, s. 60 (3). Expenses of board R.S.O. 1980, c. 409

69.—(1) For the purposes of the following Acts, the County shall be deemed to be a city and no area municipality shall be deemed to be a municipality: County deemed city under

1. *Anatomy Act*. R.S.O. 1980, c. 21
2. *Mental Hospitals Act*. R.S.O. 1980, c. 263
3. *Sanatoria for Consumptives Act*. R.S.O. 1980, c. 463
4. *War Veterans Burial Act*. R.S.O. 1980, c. 527

(2) For the purposes of the following Acts, no area municipality shall be deemed to be a municipality and the County shall have sole responsibility as a county for all matters provided for in such Acts. County responsibility under

1. *Day Nurseries Act*. R.S.O. 1980, c. 111
2. *General Welfare Assistance Act*. R.S.O. 1980, c. 188
3. *Homemakers and Nurses Services Act*. 1974, c. 57, s. 61. R.S.O. 1980, c. 200

70.—(1) No area municipality has any authority to establish, erect and maintain a home for the aged under the *Homes for the Aged and Rest Homes Act*. Liability for homes for aged R.S.O. 1980, c. 203

Assets and liabilities vest in county

(2) The home for the aged known as Woodingford Lodge and all the assets and liabilities thereof vest solely in the County on and after the 1st day of January, 1975.

Levy

(3) The costs of operating and maintaining Woodingford Lodge shall form part of the levy under section 86. 1974, c. 57, s. 62.

Residents of other homes for aged

71.—(1) The County shall pay to the committee or board of management of any home for the aged located outside the County the cost of maintenance in such home, incurred after the 31st day of December, 1974, of every resident of such home who was admitted thereto due to residence in any area that becomes part of an area municipality.

Amount of maintenance payment

(2) The amount payable by the County under subsection (1) shall be such as may be agreed upon or, failing agreement, as may be determined by the Municipal Board. 1974, c. 57, s. 63.

Area municipality not deemed municipality under R.S.O. 1980, c. 66

72. No area municipality shall be deemed to be a municipality for the purposes of the *Child Welfare Act*. 1974, c. 57, s. 64.

Liability under order made under R.S.C. 1970, c. J-3

73. Where an order is made under subsection 20 (2) of the *Juvenile Delinquents Act* (Canada) upon an area municipality, such order shall be considered to be an order upon the County, and the sums of money required to be paid under such order shall be paid by the County and not by the area municipality. 1974, c. 57, s. 66.

Information

74. Every area municipality and every officer or employee thereof shall, at the request of the officers of the County who are responsible for the administration of the Acts referred to in this Part, furnish forthwith to such officers any information they may require for the purposes of this Act. 1974, c. 57, s. 67.

Adjustments

75. In the event that there is any doubt as to whether the County is liable under this Part in respect of the liabilities imposed herein, the matter may be settled by agreement between the municipalities concerned or, failing agreement, may be determined by the Municipal Board. 1974, c. 57, s. 68.

Grants, etc., to approved corporations under R.S.O. 1980, c. 201

76. The County may grant aid to approved corporations established under the *Homes for Retarded Persons Act*, and may enter into agreements with any of such corporations with respect to the construction, operation and maintenance of homes for retarded persons. 1974, c. 57, s. 69.

PART VII

POLICE

Police jurisdiction

77. On and after the 1st day of January, 1975, each police force within the County shall continue to have jurisdiction in the area in which each police force had jurisdiction on the 31st day of December, 1974. 1974, c. 57, s. 70.

Boards of commissioners of police

78. All existing boards of commissioners of police and police committees are dissolved on the 31st day of December, 1974, and new boards of commissioners of police or police committees shall be established in the manner provided for in the *Police Act* in those area municipalities in which a local police force has jurisdiction. 1974, c. 57, s. 71.

R.S.O. 1980, c. 381

Area rating

79. In any area municipality in which a police force has jurisdiction and such police force does not provide police service to the entire area municipality, the council of such area municipality shall be entitled to establish a police area to which the costs of policing shall be charged. 1974, c. 57, s. 72.

Policing services reviewed

80. Notwithstanding the provisions of sections 77, 78 and 79, the County Council may make application to the Minister for a review of the policing services being provided in the County. 1974, c. 57, s. 73.

PART VIII

COUNTY WATERWORKS SYSTEM

County to be sole distributor of water

81.—(1) On and after the 1st day of January, 1975, the County shall have the sole responsibility for the supply and distribution of water and the financing thereof in the County and all the provisions of any general Act relating to the supply and distribution of water and the financing thereof, by a municipal corporation or a local board thereof and all of the provisions of any special Act relating to the supply and distribution of water and the financing thereof by an area municipality or a local board thereof, including the *Local Improvement Act*, apply with necessary modifications to the County, except the power to establish a public utilities commission.

R.S.O. 1980, c. 250

No area municipality to distribute water

(2) On and after the 1st day of January, 1975, no area municipality shall have or exercise any powers under any Act for the supply and distribution of water, including the financing thereof, except as provided in subsection (7).

Vesting of water supply facilities

(3) All waterworks, supply systems, meters, mechanical equipment and all real and personal property of any nature whatsoever used solely or primarily for the purposes of the supply and distribution of water and all other assets, liabilities and surpluses or deficits, including reserves, of the local municipalities relating to any facility for the supply and distribution of water in the County or for any area municipality are vested in the County effective the 1st day of January, 1975, and no compensation or damages shall be payable to any area municipality in respect thereof.

County liability

(4) The County shall pay to the corporation of any area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property assumed by the County under the provisions of subsection (3), but nothing in this subsection requires the County to pay that portion of the amounts of principal and interest that under the *Local Improvement Act* is payable as the owners' share of a local improvement. 1974, c. 57, s. 76 (1-4).

R.S.O. 1980, c. 250

Default

(5) If the County fails to make any payment as required by subsection (4), the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made. 1979, c. 69, s. 7.

Water supply agreements

(6) With respect to any agreements entered into or matters commenced by any municipality or local board thereof in the County respecting the supply and distribution of water and the financing thereof, the County shall, on the 1st day of January, 1975, stand in the place and stead of such municipality or local board for all purposes of any such agreement or matter.

Idem

(7) The County is entitled to enter into agreements with any person, area municipality or local board thereof with respect to any of the matters provided for in this Part, and in such event the person, area municipality or local board thereof has authority to enter into such agreements. 1974, c. 57, s. 76 (6, 7).

PART IX

COUNTY SEWAGE WORKS

County responsible for sanitary sewage

82.—(1) On and after the 1st day of January, 1975, the County shall have the sole responsibility for the collection and disposal of all sewage including the financing thereof,

except as provided for in subsection (7), in the County and all of the provisions of any general Act relating to the collection and disposal of such sewage and the financing thereof by a municipal corporation or a local board thereof and all of the provisions of any special Act relating to the collection and disposal of such sewage and the financing thereof, by an area municipality or a local board thereof including the *Local Improvement Act* apply with necessary modifications to the County, except the power to establish a public utilities commission. R.S.O. 1980, c. 250

No area municipality to collect sanitary sewage

(2) On and after the 1st day of January, 1975, no area municipality shall have or exercise any powers under any Act for the collection and disposal of sewage and financing thereof, except as provided in subsections (7) and (9).

Vesting of sanitary sewage facilities

(3) All sewage works, sewer systems and treatment works, including buildings, structures, plant, machinery, equipment, devices, intakes and outfalls or outlets, or other works designed for the interception, collection, settling, treating, dispersing, disposing or discharging of sewage, except as provided in subsection (7), and all real and personal property of any nature whatsoever used solely or primarily for the purpose of the collection and disposal of such sewage in the County by any area municipality is vested in the County on the 1st day of January, 1975, and no compensation or damages shall be payable to any area municipality in respect thereof.

County liability

(4) The County shall pay to the corporation of any area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property assumed by the County under the provisions of subsection (3), but nothing in this subsection requires the County to pay that portion of the amounts of principal and interest that under the *Local Improvement Act* is payable as the owners' share of the local improvement work. 1974, c. 57, s. 77 (1-4).

Default

(5) If the County fails to make any payment as required by subsection (4), the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made. 1979, c. 69, s. 8.

Agreements

(6) With respect to any agreements entered into or matters commenced by any municipality or local board thereof in the County respecting the interception, collecting, settling, treating, dispersing, disposing or discharging of sewage, including the financing thereof, except as provided

for in subsection (7), the County Council shall stand in the place and stead of such municipality or local board for all purposes of any such agreement or matter.

Land drainage

(7) The County shall be responsible for undertaking the land drainage system including storm sewers with respect to county roads and any surrounding lands which naturally drain into such land drainage system and may undertake a land drainage program including storm sewers in any part of the County as the County Council deems necessary and the area municipalities shall be responsible for all other land drainage systems, including storm sewers, within their respective boundaries.

Assumption of area municipal land drainage systems

(8) Where the County undertakes a program provided for in subsection (7), the County may assume all or any portion of the land drainage system, including storm sewers, of an area municipality, without compensation, and the provisions of subsections (4) and (5) shall apply thereto, with necessary modifications.

Idem

(9) The County is entitled to enter into agreements with any person, area municipality or local board thereof with respect to any of the matters provided for in this Part, and in such event the person, area municipality or local board thereof has authority to enter into such agreements. 1974, c. 57, s. 77 (6-9).

PART X

FINANCES

Interpretation R.S.O. 1980, c. 31

83. In this Part, "rateable property" includes business and other assessment made under the *Assessment Act*. 1974, c. 57, s. 78.

Application of R.S.O. 1980, c. 302, s. 169

84.—(1) Section 169 of the *Municipal Act* applies with necessary modifications to the County. 1974, c. 57, s. 79 (3).

County deemed municipality for purposes of R.S.O. 1980, c. 102, s. 35

(2) The County shall be deemed to be a municipality for the purposes of section 35 of the *Credit Unions and Caisses Populaires Act*. 1979, c. 69, s. 9.

YEARLY ESTIMATES AND LEVIES

Yearly estimates

85.—(1) The County Council shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the County, including the sums required by law to be provided by the County for any local board

of the County, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Ministry may from time to time prescribe.

Allowance to be made in estimates

(2) In preparing the estimates, the County Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves within such limits as to type and amount as the Ministry may approve. 1974, c. 57, s. 80 (1, 2).

Application of R.S.O. 1980, cc. 31, 302

(3) Section 33 of the *Assessment Act* and section 465 of the *Municipal Act* apply with necessary modifications to the County. 1974, c. 57, s. 80 (6).

Levy on area municipalities

86.—(1) The County Council in each year shall, subject to sections 81 and 82, levy against the area municipalities a sum sufficient,

(*a*) for payment of the estimated current annual expenditures as adopted; and

(*b*) for payment of all debts of the County falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the County is liable under this Act.

Apportionment

(2) The County Council shall ascertain and by by-law direct what portion of the sum mentioned in subsection (1) shall be levied against and in each area municipality.

Idem

(3) Subject to subsection (9), all amounts levied under subsection (1) shall be apportioned among the area municipalities in the proportion that the whole rateable property in each area municipality bears to the whole rateable property in the County, according to the last revised assessment rolls.

Assessment

(4) The Ministry of Revenue shall revise, equalize and weight the last revised assessment rolls of the area municipalities and, for the purpose of subsection (3), the last revised assessment rolls for the area municipalities as so revised, equalized and weighted by the Ministry of Revenue shall be deemed to be the last revised assessment rolls of the area municipalities.

Copy to County and area municipalities

(5) Upon completion by the Ministry of Revenue of the revision, equalization and weighting of assessment, the Ministry of Revenue shall notify the County and each of the area municipalities of the revised, equalized and weighted assessment of each area municipality.

Appeal

(6) If any area municipality is not satisfied with the assessment as revised, equalized and weighted by the Ministry of Revenue, the area municipality may appeal from the decision of the Ministry of Revenue by notice in writing to the Municipal Board at any time within thirty days after the notice of the revised, equalized and weighted assessment was sent to the area municipality by the Ministry of Revenue.

Idem

(7) Every notice of revision, equalization and weighting made under this section shall set out the time within which an appeal may be made to the Municipal Board with respect to such revision, equalization and weighting.

Amendment of by-law where necessary following appeal

(8) Where the last revised assessment of the area municipality has been revised, equalized and weighted by the Ministry of Revenue and has been appealed, the County Council shall forthwith after the decision of the Municipal Board on such appeal, amend, if required, the by-law passed under subsection (2) so as to make the apportionments among the area municipalities according to the assessments as revised by the Municipal Board upon such appeal, and,

(*a*) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the County; and

(*b*) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the County only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the County shall pay the amount of the decrease to the treasurer of the area municipality.

Fixed assessments, etc., not to apply

(9) The apportionment of the levy among the area municipalities as provided for in subsections (2) and (3) shall be based on the full value of all rateable property, and, notwithstanding any general or special Act, no fixed assessment other than a fixed assessment under section 22 of the *Assessment Act*, or partial or total exemption from assessment or taxation applies thereto, except as provided in section 3 of the *Assessment Act*.

R.S.O. 1980, c. 31

Assessment to include valuations on properties for which payments in lieu of taxes paid

(10) The assessment upon which the levy shall be apportioned among the area municipalities shall include the valua-

tions of all properties for which payments in lieu of taxes which include a payment in respect of County levies are paid by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or Ontario Hydro to any area municipality and the amount by which the assessment of an area municipality shall be deemed to be increased by virtue of payments under sections 160 and 161 of the *Municipal Act* and section 4 of the *Provincial Parks Municipal Tax Assistance Act* and subsection 8 (1) of the *Ontario Unconditional Grants Act*. R.S.O. 1980, cc. 302, 402, 359

Valuation of properties

(11) Within fourteen days of a request by the Ministry of Revenue, the clerk of an area municipality shall transmit to the said Ministry a statement of the payments referred to in subsection (10) and the said Ministry shall revise, equalize and weight the valuations of these payments and shall notify the County and the appropriate area municipality of such valuations.

Levy by-laws

(12) One by-law or several by-laws for making the levies may be passed as the County Council may consider expedient.

County levy

(13) Subject to subsection 36 (4), (5) and (6) of the *Assessment Act*, in each area municipality the County levy shall be calculated and levied upon the whole rateable property rateable for such purpose within such area municipality according to the last revised assessment roll thereof.

Payment

(14) All moneys levied against an area municipality under the authority of this section shall be deemed to be taxes and are a debt of the area municipality to the County and the treasurer of every area municipality shall pay the moneys so levied to the treasurer of the County at the times and in the amounts specified by the by-law of the County Council mentioned in subsection (2). 1974, c. 57, s. 81 (1-14).

Default

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the County Council determines, from the date payment is due until it is made. 1979, c. 69, s. 10.

Equalized assessment of merged areas

87.—(1) The Ministry of Revenue shall revise, equalize and weight each part of the last revised assessment roll of the area municipalities that relates to a merged area and each such part of the last revised assessment roll of each of the area municipalities as revised, equalized and weighted is final and binding.

Notice

(2) Upon completion by the Ministry of Revenue of the revision, equalization and weighting of assessment in an area municipality under subsection (1), the Ministry of Revenue shall notify the area municipality of the revised, equalized and weighted assessment.

Apportionment among merged areas

R.S.O. 1980, cc. 302, 31

(3) The net County levy and the sums adopted in accordance with section 164 of the *Municipal Act* for all purposes, excluding school purposes, levied against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized and weighted assessment of each merged area bears to the total equalized and weighted assessment of the area municipality both according to the last revised assessment roll as equalized and weighted by the Ministry of Revenue under subsection (1), and subsection 26 (9) of the *Assessment Act* shall not apply to any apportionment by an area municipality under this subsection. 1974, c. 57, s. 82 (1-3).

Levy

88.—(1) Notwithstanding section 86, the County Council may, in any year before the adoption of estimates for that year, levy against each of the area municipalities a sum not exceeding 50 per cent of the levy made by the County Council in the preceding year against that area municipality and subsections 86 (14) and (15) apply to such levy.

Levy under s. 87 to be reduced

(2) The amount of any levy made under subsection (1) shall be deducted from the amount of levy made under section 86.

Levy by area municipality before estimates adopted

(3) Notwithstanding section 87, the council of an area municipality may in any year, before the adoption of the estimates for that year, levy in each of the merged areas in the area municipality, on the whole of the assessment for real property including business assessment in the merged area according to the last revised assessment roll, a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the merged area in the preceding year on residential real property of public school supporters. 1974, c. 57, s. 83 (2-4).

Levy under s. 87 to be reduced

(4) The amount of any levy under subsection (3) shall be deducted from the amount of the levy made under section 87.

Application of R.S.O. 1980, c. 302, s. 159 (5)

(5) Subsection 159 (5) of the *Municipal Act* applies to levies made under this section. 1974, c. 57, s. 83 (5, 6).

Rates under R.S.O. 1980, c. 129

89.—(1) For the purposes of levying taxes under Part IV of the *Education Act*, the merged areas of an area municipality shall be deemed to be municipalities, and the council of the area municipality shall be deemed to be the council of each such merged area.

Rates for public school purposes on commercial assessment R.S.O. 1980, c. 129

(2) The amount required to be levied and collected by an area municipality for public school purposes on commercial assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total commercial assessment for public school purposes in each merged area bears to the total commercial assessment for public school purposes in the area municipality, both as equalized and weighted by the Ministry of Revenue in accordance with subsection 87 (1).

Rates for public school purposes on residential assessment

(3) The amount required to be levied and collected by an area municipality for public school purposes on residential assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total residential assessment for public school purposes in each merged area bears to the total residential assessment for public school purposes in the area municipality, both as equalized and weighted by the Ministry of Revenue in accordance with subsection 87 (1).

Rates for secondary school purposes on commercial assessment

(4) The amount required to be levied and collected by an area municipality for secondary school purposes on commercial assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total commercial assessment for secondary school purposes in each merged area bears to the total commercial assessment for secondary school purposes in the area municipality, both as equalized and weighted by the Ministry of Revenue in accordance with subsection 87 (1).

Rates for secondary school purposes on residential assessment

(5) The amount required to be levied and collected by an area municipality for secondary school purposes on residential assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total residential assessment for secondary school purposes in each merged area bears to the total residential assessment for secondary school purposes in the area municipality, both as equalized and weighted by the Ministry of Revenue in accordance with subsection 87 (1).

Regulations under R.S.O. 1980, c. 129 to apply

(6) Notwithstanding subsections (2), (3), (4) and (5), where, in any year, a regulation is in force under section 214 of the *Education Act*, the apportionments referred to in the said subsections (2), (3), (4) and (5) shall be made in accordance with the regulation. 1974, c. 57, s. 84.

ADJUSTMENTS

Transitional adjustments

90. The Minister may provide from time to time by order that, in the year or years and in the manner specified

in the order, the council of any area municipality shall levy, on the whole of the assessment for real property and business assessment according to the last revised assessment roll in any specified merged area or areas, rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for the provisions of this section. 1974, c. 57, s. 85.

RESERVE FUNDS

Reserve funds of municipalities

91.—(1) Reserve funds established by local municipalities for purposes for which the County has authority to spend funds and for which the council of an area municipality has no authority to spend funds are reserve funds of the County and the assets of such reserve funds are vested in the County.

Idem

(2) Reserve funds established by local municipalities, other than divided municipalities, for purposes for which the councils of area municipalities have authority to spend funds and for which the County has no authority to spend funds are reserve funds of the area municipality of which the local municipality forms a part and the assets of such reserve funds are vested in such area municipality. 1974, c. 57, s. 89.

TEMPORARY LOANS

Current borrowings

92.—(1) The County Council may by by-law, either before or after the passing of by-laws for imposing levies on the area municipalities for the current year, authorize the warden and treasurer to borrow from time to time by way of promissory note such sums as the County Council considers necessary to meet, until the levies and other revenues are received, the current expenditures of the County for the year, including the amounts required for principal and interest falling due within the year upon any debt of the County and the sums required by law to be provided by the County Council for any local board of the County.

Limit upon borrowings

(2) The amount that may be borrowed at any one time for the purposes mentioned in subsection (1), together with borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the County as set forth in the estimates adopted for the year.

Temporary application of estimates of previous year

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection (2) shall temporarily be calculated upon the estimated revenues of the County as set forth in the estimates adopted for the next preceding year.

Protection of lender

(4) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

Execution of promissory notes

(5) Any promissory note made under the authority of this section shall be sealed with the seal of the County and signed by the warden or by some other person authorized by by-law to sign it, and by the treasurer, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Idem

(6) The signature of the warden or any other person authorized to sign promissory notes may be written, stamped, lithographed, engraved or otherwise mechanically reproduced on promissory notes made under this section and, if such promissory note is countersigned in writing by the deputy treasurer or any other person authorized by by-law to countersign it, the signature of the treasurer thereon may be written, stamped, lithographed, engraved or otherwise mechanically reproduced.

Creation of charge

(7) The County Council may by by-law provide or authorize the warden and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the County for the current year and for any preceding years as and when such revenues are received, provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

Execution of agreements

(8) Any agreement entered into under subsection (7) shall be sealed with the corporate seal and signed by the warden and treasurer.

Penalties for excess borrowings

(9) If the County Council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years.

Penalty for misapplication of revenues by County Council

(10) If the County Council authorizes the application of any revenues of the County charged under the authority of this section otherwise than in repayment of the loan

secured by such charge, the members who knowingly vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Penalty for misapplication of revenues by officials

(11) If any member of the County Council or officer of the County knowingly applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Saving as to penalties

R.S.O. 1980, c. 303

(12) Subsections (9), (10) and (11) do not apply to the County Council or any member of the County Council or officer of the County acting under an order or direction issued or made under the authority of the *Municipal Affairs Act,* nor do they apply in any case where application of the revenues of the County is made with the consent of the lender in whose favour a charge exists. 1977, c. 36, s. 3.

DEBT

Debt

R.S.O. 1980, c. 347

93.—(1) Subject to the limitations and restrictions in this Act and the *Ontario Municipal Board Act,* the County Council may borrow money for the purposes of,

(*a*) the County;

(*b*) any area municipality;

(*c*) the joint purposes of any two or more area municipalities,

whether under this or any general or special Act, and may issue debentures therefor on the credit of the County.

Liability

(2) All debentures issued pursuant to a by-law passed by the County Council under the authority of this Act are direct, joint and several obligations of the County and the area municipalities notwithstanding the fact that the whole or any portion of the rates imposed for the payment thereof may have been levied only against one or more of the area municipalities, but nothing in this subsection affects the rights of the County and of the area municipalities respectively as among themselves.

Limitation

(3) Notwithstanding any general or special Act, no area municipality has, after the 31st day of December, 1974, power to issue debentures.

Uncompleted works

(4) When an area municipality, on or before the 31st day of December, 1974,

(*a*) has applied for and obtained the final approval of the Municipal Board in respect of any work, project or other matter mentioned in subsection 64 (1) of the *Ontario Municipal Board Act*; and R.S.O. 1980, c. 347

(*b*) has entered into a contract for or authorized the commencement of such work, project or matter but has not prior to that date issued the debentures authorized,

the County Council upon the request of the council of the area municipality, shall pass a by-law authorizing the issue and sale of debentures of the County for the purposes and in the amount approved by the Municipal Board and shall, if required by the area municipality, issue such debentures and provide temporary financing for the area municipality in the manner provided in section 97 and no further approval of the Municipal Board is required.

Bonds, debentures, etc., trustee investments

(5) Bonds, debentures and other evidences of indebtedness of the County shall be deemed to be bonds, debentures and other evidences of indebtedness of a municipal corporation for the purposes of the *Trustee Act*. 1974, c. 57, s. 91. R.S.O. 1980, c. 512

Temporary borrowing R.S.O. 1980, c. 361

94.—(1) Where the County has entered into an agreement under the *Ontario Water Resources Act* whereby the County is entitled to receive moneys from the Crown, the County Council pending the receipt of such moneys may, in order to meet expenditures incurred in carrying out the agreement, agree with a bank or a person for temporary advances from time to time.

Application of proceeds

(2) The proceeds of every advance under this section shall be applied to the expenditures incurred in carrying out the agreement made by the County under the *Ontario Water Resources Act*, but the lender shall not be bound to see to the application of the proceeds and, when the County has received the moneys to which it is entitled from the Crown under the said agreement, such moneys shall be applied first in repayment of the advances. 1976, c. 73, s. 6.

Power to incur debt or issue debentures

95. Subject to the limitations and restrictions in this Act and the *Ontario Municipal Board Act*, the County may by by-law incur a debt or issue debentures for the purposes set forth in subsection 93 (1) and, notwithstanding any general or special Act,

such by-law may be passed without the assent of the electors of the County. 1974, c. 57, s. 92.

Idem

96.—(1) Where, under any general or special Act, an area municipality cannot incur a debt or issue debentures for a particular purpose without the assent of its electors or without the concurrence of a specified number of the members of its council, the County Council shall not pass a by-law authorizing the issue of debentures on behalf of such area municipality for such purpose unless such assent or concurrence to the passing of the by-law by the County Council has been obtained.

Proviso

(2) Nothing in subsection (1) requires the assent of any electors where such assent has been dispensed with under section 63 of the *Ontario Municipal Board Act*. 1974, c. 57, s. 93.

R.S.O. 1980, c. 347

Borrowing pending issue and sale of debentures

97.—(1) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the County for its purposes, the County Council pending the issue and sale of the debentures may agree with a bank or person for temporary advances from time to time for the purposes authorized, and may by by-law pending the sale of such debentures or in lieu of selling them authorize the warden and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan.

Idem

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the County for the purposes of an area municipality, the County Council or the council of the area municipality pending the issue and sale of the debentures may, and the County Council on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time for the purposes authorized, and the County Council may, or on the request of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the warden and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality. 1977, c. 36, s. 4 (1).

Interest on proceeds transferred

(3) The County may charge interest on any proceeds of an advance or loan transferred under subsection (2) at a rate sufficient to reimburse it for the cost of such advance or loan.

Application of proceeds of loan

(4) The proceeds of every advance or loan under this section shall be applied to the purposes for which the debentures were authorized, but the lender shall not be

bound to see to the application of the proceeds and, if the debentures are subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan and, where the debentures were issued for the purposes of an area municipality, the balance, subject to section 110, shall be transferred to the area municipality.

Hypothecation not to prevent subsequent sale of debentures

(5) Subject to subsection (4), the redemption of a debenture hypothecated does not prevent the subsequent sale thereof. 1974, c. 57, s. 94 (3-5).

Signature of warden, etc., may be mechanically reproduced

(6) The signature of the warden or any other person authorized to sign loan agreements may be written, stamped, lithographed, engraved or otherwise mechanically reproduced on loan agreements made under this section and, if such loan agreement is countersigned in writing by the deputy treasurer or any other person authorized by by-law to countersign it, the signature of the treasurer thereon may be written, stamped, lithographed, engraved or otherwise mechanically reproduced. 1977, c. 36, s. 4 (2).

Principal and interest payments

98.—(1) Subject to subsection (2), a money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest.

Sinking fund debentures

(2) A money by-law for the issuing of debentures may provide that the principal shall be repaid at a fixed date with interest payable annually or semi-annually, in which case debentures issued under the by-law shall be known as sinking fund debentures.

When debentures to be payable

(3) Notwithstanding any general or special Act, the whole debt and the debentures to be issued therefor shall be made payable within such term of years as the Municipal Board may approve.

Special levy against area municipalities

(4) The by-law may provide for raising in each year, by special levy or levies against one or more area municipalities, the whole or specified portions of the sums of principal and interest payable under the by-law in such year, and each area municipality shall pay to the County such sums at the times and in the amounts specified in the by-law.

General levy

(5) The by-law shall provide for raising in each year, by a special levy on all the area municipalities, the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided

for by any special levy or levies against any area municipality or municipalities made especially liable therefor by the by-law.

Levy by area municipalities

(6) Any special levy against an area municipality imposed by the by-law under the authority of subsection (4) may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection (4).

Instalment debentures and debentures to refund existing debentures at maturity

(7) Notwithstanding subsection (5), the County Council may by by-law,

(*a*) authorize the borrowing of money by the issue of instalment debentures, the last instalment of which shall mature not earlier than ten years after the date upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause (*b*), and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and

(*b*) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law and such levy shall be levied against the same area municipality or municipalities in each case.

Levy

(8) Any special levy against an area municipality imposed by the by-law under the authority of subsection (7) may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion

of the debt levied against it under subsection (7), and any levy imposed by a by-law under clause (7) (*b*) shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause (7) (*a*) was levied.

Levies a debt

(9) All levies imposed by the by-law against an area municipality are a debt of the area municipality to the County.

By-law to change mode of issuing debentures

(10) The County Council may by by-law authorize a change in the mode of issue of the debentures and may provide that the debentures be issued with coupons instead of in amounts of combined principal and interest or *vice versa*, and where any debentures issued under the by-law have been sold, pledged or hypothecated by the County Council upon again acquiring them or at the request of any holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year. 1974, c. 57, s. 95 (1-10).

Debentures, when to be dated and issued

(11) All the debentures shall be issued within two years after the passing of the by-laws unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the County Council it would not be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law. 1974, c. 57, s. 95 (11); 1976, c. 73, s. 7 (1).

Date of debentures

(12) All the debentures shall bear the same date, except where they are issued in sets, in which case every debenture of the same set shall bear the same date.

Idem

(13) Notwithstanding the provisions of the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection (11) and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year.

Extension of time for issue

(14) The Municipal Board, on the application of the County Council, the council of any area municipality or any

person entitled to any of the debentures or of the proceeds of the sale thereof, may at any time extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Application after time expired

(15) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Effective date

(16) Unless the by-law names a later day when it is to take effect, it takes effect on the day of its passing.

Consolidation

(17) Notwithstanding any general or special Act, the County Council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor.

Consolidating debenture by-laws R.S.O. 1980, c. 302

(18) Section 145 of the *Municipal Act* applies with necessary modifications to the County.

Redemption before maturity

(19) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the County on any date prior to maturity, subject to the following provisions:

1. The by-law and every debenture that is so redeemable shall specify the place or places of payment and the amount at which such debenture may be so redeemed.

2. The principal of every debenture that is so redeemable becomes due and payable on the date set for the redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of principal thereof, the interest to the date set for redemption and any premium payable on redemption.

3. Notice of intention so to redeem shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.

4. At least thirty days prior to the date set for such redemption notice of intention so to redeem shall be published in *The Ontario Gazette* and in a daily

newspaper of general circulation in the County and in such other manner as the by-law may provide.

5. Where only a portion of the debentures issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates and no debentures issued under the by-law shall be called for such redemption in priority to any debentures that have a later maturity date.

6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the County Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the County Council in respect of the debenture so redeemed.

Currency

(20) The by-law may provide that the debentures to be issued thereunder shall be expressed and be payable,

(*a*) in lawful money of Canada and payable in Canada; or

(*b*) in lawful money of the United States of America and payable in the United States of America; or

(*c*) in lawful money of Great Britain and payable in Great Britain; or

(*d*) subject to the prior approval of the Lieutenant Governor in Council, in a currency other than that of Canada, the United States of America or Great Britain.

Annual rates

(21) Where under the provisions of the by-law debentures issued thereunder are expressed and made payable in lawful money of the United States of America or of Great Britain, or in any currency other than that of Canada, the County Council may in such by-law or in any amending by-law in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary.

Principal levies

(22) When sinking fund debentures are issued, the amount of principal to be raised in each year shall be a specific sum which, with the estimated interest at a rate not exceeding 5 per cent per annum, capitalized yearly, will be sufficient to pay the principal of the debentures or any set of them, when and as it becomes due.

Consolidated bank accounts

(23) When sinking fund debentures are issued, the sinking fund committee shall keep one or more consolidated bank accounts in which,

(*a*) the treasurer of the County shall deposit each year during the term of the debentures the moneys raised for the sinking fund of all debts that are to be paid by means of sinking funds; and

(*b*) there shall be deposited all earnings derived from, and all proceeds of the sale, redemption or payment of, sinking fund investments.

Sinking fund committee

(24) When sinking fund debentures are issued, there shall be a sinking fund committee that shall be composed of the treasurer of the County and two members appointed by the County Council, and the two appointed members may be paid, out of the current fund of the County, such annual remuneration as the County Council determines. 1974, c. 57, s. 95 (12-24).

Alternate members

(25) The County Council may appoint an alternate member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member and any such alternate member may be paid, out of the current fund of the County, such remuneration as the County Council determines. 1976, c. 73, s. 7 (2).

Chairman

(26) The treasurer of the County shall be the chairman and the treasurer of the sinking fund committee and in his absence the appointed members may appoint one of themselves as acting chairman and treasurer.

Security

(27) Each member of the sinking fund committee shall, before entering into the duties of his office, give security for the faithful performance of his duties and for duly accounting for and paying over all moneys that come into his hands, in such amount as the auditor of the County shall determine, and in other respects the provisions of section 94 of the *Municipal Act* apply with respect to such security.

R.S.O. 1980, c. 302

Quorum

(28) Two members of the sinking fund committee are a quorum, and all investments and disposals of investments

must be approved by a majority of all the members of the committee.

Control of sinking fund assets

(29) All assets of the sinking fund, including all consolidated bank accounts, shall be under the sole control and management of the sinking fund committee.

Withdrawals from bank accounts

(30) All withdrawals from the consolidated bank accounts shall be authorized by the sinking fund committee, and all cheques on the consolidated bank accounts shall be signed by the chairman or acting chairman and one other member of the sinking fund committee.

Investments

(31) The sinking fund committee shall invest any moneys on deposit from time to time in the consolidated bank accounts and may at any time or times vary any investments. 1974, c. 57, s. 95 (26-31).

Idem

(32) The moneys in the consolidated bank accounts shall be invested in one or more of the following forms,

(*a*) in securities in which a trustee may invest under the *Trustee Act*; R.S.O. 1980, c. 512

(*b*) in debentures of the County;

(*c*) in temporary advances to the County pending the issue and sale of any debentures of the County;

(*d*) in temporary loans to the County for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made;

(*e*) in securities issued or unconditionally guaranteed as to principal and interest by the United States of America;

(*f*) in such other securities as are authorized by the Lieutenant Governor in Council. 1974, c. 57, s. 95 (32); 1976, c. 73, s. 7 (3).

Deposit of securities with Treasurer of Ontario

(33) Any securities acquired by the sinking fund committee as investments for sinking fund purposes may be deposited with the Treasurer of Ontario.

Release of securities by Treasurer of Ontario

(34) The Treasurer of Ontario shall release, deliver or otherwise dispose of any security deposited with him under subsection (33) only upon the direction in writing of the sinking fund committee.

Sinking fund accounts

(35) All sinking fund debentures issued on the same date, payable in the same currency, and maturing on the same date, notwithstanding they are issued under one or more by-laws shall be deemed one debt and be represented by one sinking fund account.

Earnings credited to sinking fund accounts

(36) That portion of the amount of all earnings in any year, on an accrual basis, from sinking fund investments obtained by,

(*a*) multiplying the amount of all such earnings by the amount of the capitalized interest for that year under subsection (22) with respect to the principal raised up to and including such year for all sinking fund debentures represented by any sinking fund account; and

(*b*) dividing the product obtained under clause (*a*) by the amount of all capitalized interest for that year under subsection (22) with respect to all principal raised up to and including such year for all outstanding sinking fund debentures,

shall be credited to the sinking fund account mentioned in clause (*a*).

Sinking fund requirements

(37) The treasurer of the County shall prepare and lay before the County Council in each year, before the annual County levies are made, a statement showing the sums that the County Council will be required, by by-law, to raise for sinking funds in that year.

Offence

(38) If the treasurer of the County contravenes subsection (23) or (37), he is guilty of an offence and on conviction is liable to a fine of not more than $250.

Failure to levy

(39) If the County Council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the County Council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount.

Where amount in sinking fund account more than sufficient to pay debt

(40) Notwithstanding this or any other Act or by-law if it appears at any time that the amount at the credit of any sinking fund account will be more than sufficient, with the estimated earnings to be credited thereto under subsection (36) together with the levy required to be made by the by-law or by-laws that authorized the issue of the debentures represented by such sinking fund account, to pay

the principal of the debt represented by such sinking fund account when it matures, the Municipal Board, on the application of the sinking fund committee, the County Council or the council of an area municipality, may authorize the County Council or the council of an area municipality to reduce the amount of money to be raised with respect to such debt in accordance with the order of the Municipal Board.

No diversion of sinking funds

(41) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the County or otherwise than is provided in this section.

Surplus

(42) When there is a surplus in a sinking fund account, the sinking fund committee shall,

(*a*) use the surplus to increase the amount at the credit of another sinking fund account; or

(*b*) authorize the withdrawal of the surplus from the consolidated bank accounts, and the surplus shall be used for one or more of the following purposes,

(i) to retire unmatured debentures of the County or of an area municipality,

(ii) to reduce the next annual levy on account of principal and interest payable with respect to debentures of the County or an area municipality,

(iii) to reduce the amount of debentures to be issued for other capital expenditures for which the issue of debentures has been approved by the Municipal Board,

and the surplus shall be used under either clause (*a*) or (*b*) for the purposes of the County or an area municipality in the proportion that the amount of the contribution for the purposes of each bears to the total contributions to the sinking fund account in connection with which the surplus arose.

Deficit and surplus

(43) Notwithstanding that any sinking fund debentures have been issued for the purposes of one or more area municipalities, any deficit in the sinking fund account shall be provided by the County out of its current funds and any surplus in the sinking fund account shall be used as provided in subsection (42).

Term debentures

(44) A money by-law may authorize the issue of debentures of which a portion shall be payable on a fixed date with interest payable annually or sem-annually, in which case such debentures shall be known as term debentures.

Amounts to be raised annually

(45) In respect of the term debentures, the by-law shall provide for raising,

(*a*) in each year of the currency of the term debentures a sum sufficient to pay the interest on the term debentures; and

(*b*) in each year of the currency of the term debentures in which no other debentures issued under the same by-law become due and payable, a specific amount to form a retirement fund for the term debentures which, with interest at a rate not to exceed 5 per cent per annum compounded yearly, will be sufficient to pay the principal of the term debentures at maturity. 1974, c. 57, s. 95 (33-45).

Retirement fund

(46) The retirement fund for the term debentures shall be administered by the sinking fund committee in all respects in the same manner as a sinking fund established under this section and the provisions of subsections (23) to (43) of this section with respect to a sinking fund shall apply with necessary modifications to such retirement fund. 1974, c. 57, s. 95 (46); 1976, c. 73, s. 7 (4).

All debentures rank equally

(47) Notwithstanding the provisions of any general or special Act or any differences in date of issue or maturity, every debenture issued shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the County, except as to the availability of any sinking funds applicable to any particular issue of debentures. 1976, c. 73, s. 7 (5).

Debentures payable on a fixed date subject to the annual redemption by lot of a specified principal amount

99. Notwithstanding any other provision of this Act,

(*a*) a money by-law of the County Council may provide that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date, subject to the obligation of the County to redeem by lot annually on each anniversary of the date of such debentures a specified principal amount of such debentures upon payment by the County of such principal amount plus accrued interest to the date of redemption and upon giving notice as provided in this section;

(*b*) the principal amount of every debenture that is called for redemption shall become due and payable on the date set for the redemption thereof and, after such date, interest ceases to accrue thereon where provision is duly made by the County for the payment of the principal amount thereof; interest ceases to accrue on date set for redemption

(*c*) the debentures to be redeemed on each anniversary of the date of such debentures shall be selected by lot by the treasurer of the County at a public meeting of the County Council and when redeemed shall be cancelled and shall not be reissued, provided always that the principal amount of the debentures to be redeemed in any year may be reduced by the principal amount of any debentures purchased by the County, at a price or prices not exceeding the principal amount thereof, and surrendered for cancellation on the date fixed for redemption; debentures to be redeemed may be purchased

(*d*) notice of intention to redeem any debenture shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture may be registered at the address shown in the Debenture Registry Book; notice to redeem to be sent by mail

(*e*) notice of intention to redeem any debenture shall be published at least thirty days prior to the date set for such redemption in such manner as the by-law may provide; notice to redeem to be published

(*f*) where only a portion of the debentures issued under a by-law is payable on a fixed date, the obligation of the County to redeem by lot annually a specified principal amount of such debentures does not apply in any year in which an instalment of principal of the remaining debentures issued under such by-law becomes due and payable; and where only portion of debentures payable on fixed date

(*g*) the aggregate amounts of principal and interest, or the amounts of principal, payable in each year during the currency of debentures issued under this section shall be approximately equal. 1976, c. 73, s. 8. annual amounts payable to be approximately equal

100.—(1) Subsection 152 (1) of the *Municipal Act* applies with necessary modifications to the County Council. 1976, c. 73, s. 9. Application of R.S.O. 1980, c. 302, s. 152 (1)

Hypothecation not a sale under this section

(2) For the purposes of this section, the hypothecation of debentures under section 97, shall not constitute a sale or other disposal thereof.

Consolidation of debentures

(3) The County Council may by one by-law authorized under subsection (1) amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

Special assessment and levies

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the County Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the County Council. 1974, c. 57, s. 96 (2-4).

Repeal of by-law when part only of money to be raised

101.—(1) Where part only of a sum of money provided for by a by-law has been raised, the County Council may repeal the by-law as to any part of the residue, and as a proportionate part of the amounts to be raised annually.

When to take effect

(2) The repealing by-law shall recite the facts on which it is founded, shall provide that it shall take effect on the 31st day of December in the year of its passing, shall not affect any rates or levies due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. 1974, c. 57, s. 97.

Until debt paid certain by-laws cannot be repealed

102.—(1) Subject to section 101, after a debt has been contracted under a by-law, the County Council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating, for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not apply to any other purpose any money of the County that has been directed to be applied to such payment.

Application of payments

(2) When the County, by or under the authority of this Act, pays to an area municipality any amount of principal and interest becoming due upon any outstanding debentures issued by the area municipality, neither the council of the area municipality nor any officer thereof shall apply any of the moneys so paid for any purpose other than the payment of the amounts of principal and interest so becoming due. 1974, c. 57, s. 98.

Offence for neglect of officer to carry out by-law

103. Any officer of the County whose duty it is to carry into effect any of the provisions of a money by-law of the County who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on conviction is liable to a fine of not more than $100. 1974, c. 57, s. 99.

Money by-laws may be registered

104.—(1) Within four weeks after the passing of a money by-law, the clerk may register a duplicate original or a copy of it certified under his hand and the seal of the County in the appropriate land registry office.

Application to quash registered by-law, when to be made

R.S.O. 1980, cc. 347, 126, 250

(2) Subject to section 61 of the *Ontario Municipal Board Act*, every by-law registered in accordance with subsection (1), or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws passed under the *Drainage Act* or the *Local Improvement Act*, and in the case of other by-laws, within three months after the registration, an application or action to quash the by-law is made to or brought in a court of competent jurisdiction, and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought, is registered in such registry office within such period of three months or one month, as the case may be.

Time when by-law to be valid and binding

(3) After the expiration of the period prescribed by subsection (2), if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Quashing part of by-law

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection (2), but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, is after the expiration of that period, valid and binding according to its terms.

Dismissal of application

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered, and after such dismissal and the expiration of the period prescribed by subsection (2), if it has not already expired, the by-law, or so much of it as is not quashed, is valid and binding according to its terms.

Illegal by-laws not validated

(6) Nothing in this section makes valid a by-law passed without the assent of the electors of an area municipality as required by subsection 96 (1) or a by-law where it appears on the face of it that any of the provisions of subsection 98 (5) have not been substantially complied with.

Failure to register

(7) Failure to register a by-law as prescribed by this section does not invalidate it. 1974, c. 57, s. 100.

Debentures, how sealed and executed

105.—(1) A debenture or other like instrument shall be sealed with the seal of the County, which seal may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and, subject to subsection (3), shall be signed by the warden, or by some other person authorized by by-law of the County to sign it, and by the treasurer.

Interest coupons

(2) A debenture may have attached to it interest coupons that shall be signed by the treasurer and his signature may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and such interest coupons are sufficiently signed if they bear the signature of the treasurer on the date the County Council authorized the execution of the debenture or on the date the debenture bears or at the time the debenture was issued and delivered.

Mechanical reproduction of signatures

(3) The signature of the warden, or such other person authorized by by-law to sign the debentures or other like instruments, may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and if the debenture or other like instruments are countersigned in writing by a person authorized by by-law of the County to countersign, the signature of the treasurer may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of mechanical reproduction

(4) The seal of the County when so engraved, lithographed, printed or otherwise mechanically reproduced has the same force and effect as if manually affixed and the signature of the warden or such other person authorized by by-law to sign the debentures or other like instruments and, if the debentures or other like instruments are countersigned, the signature of the treasurer when so engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the warden or other person so authorized to sign or of the treasurer, as the case may be, and is binding upon the County.

Sufficiency of signatures

(5) Any debenture or other like instrument is sufficiently signed and countersigned if it bears the signature of the

persons provided in this section if such persons had authority to sign and countersign as provided in this section either on the date the County Council authorized the execution of such instrument or on the date such instrument bears or at the time it was issued and delivered. 1974, c. 57, s. 101.

Debentures on which payment has been made for one year to be valid

106. Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the County, the by-law and the debentures issued under it are valid and binding upon the County. 1974, c. 57, s. 102.

Mode of transfer may be prescribed

107.—(1) Where a debenture contains or has endorsed upon it provisions to the following effect:

> This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this Corporation (or by such other person authorized by by-law of this Corporation to endorse such certificate of ownership), transferable except by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book of the Corporation at the
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the treasurer (or such other persons so authorized), on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given, and shall also enter in such book a memorandum of every transfer of such debenture.

Requirements as to endorsing certificate of ownership

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, and, if the person last entered as owner of it is a corporation, the written authority of such corporation, or its successors, which authority shall be retained and filed by the treasurer.

Transfer by entry in Debenture Registry Book

(3) After a certificate of ownership has been endorsed, the debenture, if it contains or has endorsed upon it a provision to the like effect of the provision contained in

subsection (1), is transferable only by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney and, if the then owner of it is a corporation, the written authority of such corporation, or its successors.

Fully registered debenture

(4) A debenture may be registered as to both principal and interest, in which case the interest thereon shall be paid by cheque and the debenture may be referred to as a fully registered debenture. 1974, c. 57, s. 103.

Where debenture Registry Book may be maintained outside Canada

(5) Where debentures are payable in a currency other than that of Canada, the County Council may provide that the Debenture Registry Book of the County in respect of such debentures be maintained outside Canada by a corporation or person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the County Council considers appropriate. 1976, c. 73, s. 10.

Replacement of lost debentures

108. Where a debenture is defaced, lost or destroyed, the County Council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. 1974, c. 57, s. 104.

Exchange of debentures

109.—(1) On request of the holder of any debenture issued by the County, the treasurer of the County may issue and deliver to such holder a new debenture or new debentures in exchange therefor for the same aggregate principal amount.

On request of sinking fund committee

(2) On the request of the sinking fund committee, the treasurer of the County may, as provided in this section, exchange debentures, heretofore or hereafter issued by the County.

New debenture of same force and effect as debenture surrendered

(3) Any new debenture mentioned in subsection (1) may be registered as to principal and interest but in all other respects shall be of the same force and effect as the debenture or debentures surrendered for exchange.

Debentures surrendered for exchange to be cancelled

(4) The treasurer and auditor of the County shall cancel and destroy all debentures surrendered for exchange and shall certify in the Debenture Registry Book that they have been cancelled and destroyed and shall also enter in the Debenture Registry Book particulars of any new debenture issued in exchange. 1974, c. 57, s. 105.

110.—(1) The moneys received by the County from the sale or hypothecation of any debentures, to the extent that such moneys are required for the purposes for which the debentures were issued and for the repayment of any outstanding temporary loans with respect thereto, shall be used only for such purpose or purposes. Application of proceeds of debentures

(2) None of the moneys received by the County from the sale or hypothecation of any debentures shall be applied towards payment of the current or other expenditures of the County or an area municipality. Idem

(3) Where on the sale of any debenture an amount is realized in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied, Surplus

(*a*) if any such debentures are redeemable prior to maturity at the option of the County to redeem one or more of the debentures having the latest maturity date; or

(*b*) to reduce the next annual levy on account of principal and interest payable with respect to such debentures; or

(*c*) to reduce the amount of debentures to be issued for other capital expenditures of a similar nature for which the issue of debentures has been approved by the Municipal Board, provided that the principal and interest charges of such debentures are levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures with respect to which the excess arose.

(4) Where on the sale of any debentures a deficiency in the amount required for the purpose or purposes for which the debentures were issued is sustained, the amount of such deficiency shall be added to the sum to be raised for the first annual payment of principal and interest with respect to the debentures and the levy made in the first year for such purpose or purposes shall be increased accordingly or shall be raised by the issue of other debentures approved by the Municipal Board for the same or any similar purpose or purposes. 1974, c. 57, s. 106. Deficiency

111. Where real or personal property acquired out of moneys received by the County from the sale or hypothecation of any debentures is disposed of by sale or other- Use of proceeds of sale of asset acquired from proceeds of sale of debentures

wise, the net proceeds of such disposal shall be applied as an excess in accordance with subsection 110 (3) or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which, if raised by taxation, would be raised by taxation levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the property disposed of or sold. 1974, c. 57, s. 107.

Tenders for debentures

112. When the County intends to borrow money on debentures under this or any other Act, the County Council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. 1974, c. 57, s. 108.

Accounts, how to be kept

113.—(1) The County Council shall,

(*a*) keep a separate account of every debenture debt;

(*b*) where the whole of a debenture debt is not payable in the current year, keep in respect thereof,

(i) an additional account for the interest, if any, and

(ii) an additional account for the sinking fund or the instalments of principal,

distinguished from all other accounts by a prefix designating the purpose for which the debenture debt was contracted; and

(*c*) keep the accounts so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for the payment of it.

Consolidated interest account

(2) The County Council may by by-law provide and direct that instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt. 1974, c. 57, s. 109.

Application of surplus money

114. If, in any year after paying the interest and appropriating the necessary sum in payment of the instalments, there is a surplus properly applicable to such

debt, it shall so remain until required in due course for the payment of interest or in payment of principal. 1974, c. 57, s. 110.

Liability of members

115.—(1) If the County Council applies any money raised for a special purpose or collected for a sinking fund in payment of current or other expenditures, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Action by ratepayer

(2) If the County Council, upon the request in writing of a ratepayer of any area municipality, refuses or neglects for one month to bring an action therefor, the action may be brought by any such ratepayer on behalf of himself and all other ratepayers in the County.

Disqualification

(3) The members who vote for such application are disqualified from holding any municipal office for two years. 1974, c. 57, s. 111.

Refinancing of debentures

116. When, by or under the authority of this Act, the County is or becomes liable for the payment to an area municipality of all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality, the County may, with the approval of the Municipal Board,

(*a*) cancel all such debentures that have not been sold and issue new debentures of the County in substitution and exchange therefor and apply the proceeds thereof, as may be directed by the Municipal Board for the purposes for which such debentures were issued;

(*b*) arrange with the area municipality for redemption of all such debentures as are redeemable and issue new debentures of the County to raise the moneys required for such redemption; and

(*c*) purchase, by agreement with the owner or owners thereof, all such debentures of a single issue of the area municipality, and issue new debentures of the Corporation to raise the money required to complete such purchase. 1974, c. 57, s. 112.

PART XI

GENERAL

Application of R.S.O. 1980, c. 302

117.—(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 116, 117, 121, 165 and 190, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the County. 1979, c. 69, s. 11.

Erections, annexations and amalgamations

(2) Sections 10 and 11 and, subject to subsection 2 (5), subsection 14 (2) of the *Municipal Act* do not apply to any area municipality except in relation to alterations of boundaries of area municipalities, which alterations, in the opinion of the Municipal Board, are of a minor nature.

Public transportation systems, refuse disposal, entertainment expenses, etc.

(3) The County shall be considered to be a local municipality for the purposes of paragraphs 98 and 129 of section 210 and section 253 of the *Municipal Act*. 1974, c. 57, s. 114 (2, 3).

Application of R.S.O. 1980, c. 297, s. 13

(4) The County shall be deemed to be a municipal corporation for the purposes of section 13 of the *Mortmain and Charitable Uses Act*. 1977, c. 36, s. 5 (2).

Purchasing or renting machinery R.S.O. 1980, c. 302

(5) The County shall be deemed to be, and to have always been, a municipality for the purposes of section 311 of the *Municipal Act*. 1980, c. 32, s. 6.

Delegation of approval

(6) Notwithstanding any other provision in this Act, the County may pass a by-law authorizing the head of the department concerned to grant the approval required by subsection 34 (2) and any such by-law may prescribe terms and conditions under which any such approval or consent may be granted.

By-laws

(7) Every by-law of a local municipality as it exists on the 31st day of December, 1974, shall remain in force in the area of the former local municipality on and after the 1st day of January, 1975, and may be amended or repealed by the council of an area municipality as it affects such area municipality and where any such by-law pertains to a function of the County it may be amended or repealed by the County Council.

Idem

(8) Where any local municipality has passed a by-law that, prior to its coming into force requires the approval of any

minister of the Crown, any provincial ministry, the Municipal Board or any provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1974, the council of the successor area municipality to such local municipality, or the County Council when the subject-matter of the by-law pertains to a function of the County, shall be entitled to initiate or continue the procedure to obtain such approval to the by-law passed by the local municipality, in so far as it pertains to such area municipality or the County and the provisions of subsection (7) apply with necessary modifications to any such by-law.

Vesting of transportation assets in County

(9) In the event that the County establishes a transportation system in accordance with the provisions of subsection (3), no area municipality shall operate such a system and all the assets and liabilities of any area municipality used for a public transportation system vest in the County on the day such County transportation system is established, without compensation, and the County shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of the area municipality in respect of any such assets.

Default

(10) If the County fails to make any payment required by subsection (9), the area municipality may charge the County interest at the rate of 12 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made. 1974, c. 57, s. 114 (4-8).

Conservation Authority representation

R.S.O. 1980, c. 85

(11) Notwithstanding section 4 of the *Conservation Authorities Act*, the County Council may appoint to the Upper Thames River Conservation Authority the same number of members as the local municipalities within the County were entitled to appoint in the year 1974. 1974, c. 118, s. 3 (2).

Emergency measures

118.—(1) The County may pass by-laws,

(*a*) for the establishment and maintenance of an emergency measures civil defence organization in the County; and

(*b*) for providing moneys for emergency measures and civil defence, for the purposes of the emergency measures civil defence organization and for the cost of the operation of such organization, and for other similar work in the County,

and when a by-law passed under this subsection is in force in the County, any by-laws passed by the council

of an area municipality under subclauses 209 (*b*) (ii) and (iii) of the *Municipal Act* have no effect.

R.S.O. 1980, c. 302

Powers of County Council re emergency measures

(2) When a by-law passed under clause (1) (*a*) is in force, the County Council may pass by-laws,

(*a*) with the consent of the area municipality or local board concerned, for appointing heads of departments and alternates to be members of or advisers to the emergency measures planning committee or any subcommittee thereof;

(*b*) with the consent of the area municipality or local board concerned, for training employees of the area municipality or local board in their emergency functions;

(*c*) for appointing members of the emergency measures planning committee or of any subcommittee thereof to be in charge of such departments or utilities throughout the County, as the by-law may provide, when an emergency has been proclaimed under the *War Measures Act* (Canada);

R.S.C. 1970, c. W-2

(*d*) for acquiring alternative headquarters for the County Government outside the County;

(*e*) for obtaining and distributing emergency materials, equipment and supplies; and

(*f*) for complying with any request of the Government of Canada or of Ontario in the event of a nuclear attack. 1974, c. 57, s. 115 (1, 2).

Expenditures for diffusing information

119.—(1) The County may make expenditures for the purpose of diffusing information respecting the advantages of the County as an industrial, business, educational, residential or vacation centre. 1976, c. 73, s. 12.

Application of R.S.O. 1980, c. 302, s. 210, par. 50, s. 208, par. 22

(2) Paragraph 50 of section 210 and paragraph 22 of section 208 of the *Municipal Act* apply with necessary modifications to the County, and no area municipality shall exercise any such powers,

(*a*) save and except in respect of those lands acquired or held by a local municipality on or before the 31st day of December, 1974; or

(*b*) unless the by-law of the area municipality has been approved by the County Council. 1979, c. 69, s. 12.

Payment of damages to employees

120. Where, in an action or by the settlement of a claim arising out of any injury to an employee or to any person considered an employee for the purposes of the *Workmen's Compensation Act*, the County recovers damages from a third person, such damages or any portion thereof may be paid to such employee or person or, in the event of his death, to one or more of his dependants upon such terms and conditions as the County may impose. 1974, c. 57, s. 118.

R.S.O. 1980, c. 539

Investigation by county judge of charges of malfeasance

121.—(1) Where the County Council passes a resolution requesting a judge of the county court within the County or a judge of the county court of a county or judicial district adjoining the County, to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the County Council, or an officer or employee of the County, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, employee or other person to the County, or to inquire into or concerning any matter connected with the good government of the County or the conduct of any part of its public business, including any business conducted by a local board of the County, the judge shall make the inquiry and for that purpose has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act, and he shall, with all convenient speed, report to the County Council the result of the inquiry and the evidence taken.

R.S.O. 1980, c. 411

Fees payable to judge

(2) The judge shall be paid by the County the same fees as he would be entitled to if the inquiry had been made by him as a referee under the *Judicature Act*.

R.S.O. 1980, c. 223

Engaging counsel

(3) The County Council may engage and pay counsel to represent the County, and may pay all proper witness fees to persons summoned to give evidence at the instance of the County, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel.

Idem

(4) The judge may engage counsel and such other assistants and staff and incur such incidental expenses as he considers advisable for the proper conduct of the investigation or inquiry, and the County shall pay the costs thereof. 1974, c. 57, s. 119.

Commission of inquiry

122.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may issue a commission

to inquire into any of the affairs of the County or a local board thereof, and any matter connected therewith, and the commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980, c. 411

When commission may issue

(2) A commission may be recommended at the instance of the Ministry or upon the request in writing of not less than one-third of the members of the County Council, or of not less than fifty ratepayers of an area municipality assessed as owners and resident therein.

Expenses of commission

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister and are subject to such division between the County and the Province as the Lieutenant Governor in Council may direct. 1974, c. 57, s. 120.

Entry on highways

123. The County for its purposes may enter, break up, dig and trench in, upon and under the highways, lanes and other public communications of any area municipality and may construct and maintain therein pipes, sewers, drains, conduits and other works necessary for its purposes, without making compensation therefor, but all such highways, lanes and other public communications shall be restored to their original condition without unnecessary delay. 1974, c. 57, s. 121.

Agreements re services

124. The County and any area municipality may enter into agreements for the use within any part of the County of the services of their respective officers, employees and equipment on any such terms and conditions as the councils deem necessary. 1974, c. 57, s. 122.

Application of R.S.O. 1980, c. 31

125.—(1) For the purposes of paragraph 9 of section 3 and section 26 of the *Assessment Act*, the County shall be deemed to be a municipality.

County and area municipalities deemed not tenants

(2) For the purposes of paragraph 9 of section 3 of the *Assessment Act*, where property belonging to the County is occupied by an area municipality or where property belonging to an area municipality is occupied by the County or another area municipality, the occupant shall not be considered to be a tenant or lessee, whether rent is paid for such occupation or not.

Interpretation

(3) In subsection (2), "County" and "area municipality" include a local board thereof. 1974, c. 57, s. 123.

126.—(1) An execution against the County may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings therein shall then be the following: Execution against County

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the County, or leave such copy at the office or dwelling place of the treasurer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.

2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment rolls of all the area municipalities and shall, in like manner as the levies of the County for general purposes are apportioned among the area municipalities, determine the portion of the amount mentioned in the statement that shall be levied against and in each area municipality.

3. The sheriff shall then in like manner as rates struck for general municipal purposes within each area municipality strike a rate sufficient in the dollar to cover its share of the amount due from the execution, and in determining such amount he may make such addition to the same as the sheriff considers sufficient to cover its share of the interest up to the time when the rate will probably be available and his own fees and poundage.

4. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the area municipality and shall annex to the precept the roll of such rate and shall by the precept, after reciting the writ and that the County has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates.

5. If, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year,

he shall add a column thereto, headed "Execution in A.B. vs. the County of Oxford" (adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.

6. The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the area municipality.

Function of clerk and treasurer

(2) The clerk, assessor and collector of each area municipality shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be considered to be officers of the court out of which the writ issued, and as such are amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. 1974, c. 57, s. 124.

Roads Commissions dissolved

127. The Woodstock Suburban Roads Commission and the Ingersoll Suburban Roads Commission are dissolved on the 1st day of January, 1975, and all the assets and liabilities thereof vest in the County on such date. 1974, c. 57, s. 125.

Powers of O.M.B.

128.—(1) In the event of any doubt as to whether any particular asset or liability is vested in the County under this Act, the Municipal Board upon application has power to determine the matter as sole arbitrator and sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such power.

R.S.O. 1980, c. 347

Settling of doubts

(2) In the event of any doubt as to whether any outstanding debt or portion thereof is a debt in respect of any asset assumed by or vested in the County under this Act, the Municipal Board upon application may determine the matter and its decision is final. 1974, c. 57, s. 126.

Conditional powers

129. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the purposes of this Act. 1974, c. 57, s. 127.

Conflict with other Acts

130.—(1) The provisions of this Act apply notwithstanding the provisions of any general or special Act and, in the event of any conflict between this Act and any general or special Act, this Act prevails.

Special legislation

(2) The provisions of any special Act relating to a local municipality or local board thereof within the County, in so far as the provisions of such special Act are not in conflict with the provisions of this Act, continue in force, and the powers conferred by any such special Act may be exercised by the County or a local board thereof or by the corporation of the appropriate area municipality or a local board thereof according to whether the powers conferred by such special Act relate to a function assigned under this Act to the County or a local board thereof or to the area municipalities or local boards thereof. 1974, c. 57, s. 128.

Municipal buildings

131.—(1) The County or an area municipality or the County and one or more area municipalities,

(*a*) may acquire land for the purpose of constructing municipal buildings; and

(*b*) may construct municipal buildings for the use of the County or the County and one or more area municipalities or any local board thereof.

Application of R.S.O. 1980, c. 302

(2) Section 125 of the *Municipal Act* applies with necessary modifications to any joint undertaking under this section. 1974, c. 57, s. 129.

Interpretation

132.—(1) In this section, "waste" includes ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse, and such other waste as may be designated by by-law of the County Council.

Receiving and disposing of waste by County

(2) On and after the 1st day of January, 1975, the County shall provide facilities for the purpose of receiving, dumping and disposing of waste, and no area municipality shall provide such facilities. 1974, c. 57, s. 130 (1, 2).

Waste disposal sites

(3) For the purposes of subsection (2), the County may acquire and use land within the County and may erect, maintain and operate all facilities including buildings, structures, machinery or equipment for the purposes of receiving, dumping and disposing of waste, and may contract with

any person, including Her Majesty in right of Ontario, for such purposes, and may prohibit or regulate the dumping and disposing of waste or any class or classes thereof upon such land, and may prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise as the County Council considers appropriate in the circumstances, and all such existing facilities and lands of a local municipality to the extent they are used for such purposes vest in the County on the 1st day of January, 1975, without compensation. 1974, c. 57, s. 130 (3); 1974, c. 118, s. 5.

Payment of principal and interest to area municipalities

(4) The County shall pay to the corporation of any area municipality on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property assumed by the County under the provisions of subsection (3).

Default

(5) If the County fails to make any payment required by subsection (4), the area municipality may charge the County interest at the rate of 12 per cent per annum thereon or such lower rate as the council of the area municipality determines from such date until payment is made.

O.M.B. to arbitrate

(6) In the event of any doubt as to whether any outstanding debt or portion thereof was incurred in respect of any property vested in the County under this section, the Municipal Board may determine the matter and such determination is final and binding.

Application of R.S.O. 1980, c. 302

(7) For the purposes of subsection (3), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications. 1974, c. 57, s. 130 (4-7).

Successor rights

133. Where any agreement has been entered into or proceeding commenced by a local municipality, providing the terms thereof are not inconsistent with the provisions of this Act, the County or the appropriate area municipality shall on and after the 1st day of January, 1975, be deemed to stand in the place and stead of such local municipality for all purposes in so far as the agreement or proceeding pertains to the functions of the County or area municipality. 1974, c. 57, s. 131.

County Fire Co-ordinator

134. The County shall appoint a County Fire Co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the County

including the establishment of a communications system and training facilities for fire fighters, and the County is authorized to expend such sums as it considers necessary to implement such plan and program. 1974, c. 57, s. 132.

Existing speed limits continued

135.—(1) Notwithstanding the other provisions of this Act but subject to subsections (2) and (3), for the purposes of section 109 of the *Highway Traffic Act* the area in the County that, on the 31st day of December, 1974, formed part of a city, town, village or township municipality shall be considered to continue to form part of a city, town, village or township municipality.

R.S.O. 1980, c. 198

By-laws of County and area municipalities

(2) Notwithstanding subsection (1), the County Council and the council of each area municipality may exercise any of its powers under section 109 of the *Highway Traffic Act* in respect of highways under its jurisdiction and control.

Existing speed limits continued

(3) Every by-law passed by the council of a municipality under any provision of section 109 of the *Highway Traffic Act* that applied, on the 31st day of December, 1974, to any highway or portion thereof within the County shall continue to apply thereto until a by-law passed by the County Council or the council of an area municipality under such section 109 applies thereto. 1974, c. 57, s. 133.

Boards, etc., dissolved

136.—(1) On the 31st day of December, 1974, all community centre boards and all boards of recreation or park management in a local municipality are dissolved and the assets and liabilities thereof become, on the 1st day of January, 1975, the assets and liabilities of the area municipality of which the local municipality becomes a part, and in the event the area of jurisdiction of any such board is divided between two area municipalities, the committee of arbitration appointed under section 88 of *The County of Oxford Act, 1974* shall make the determination of the disposition of such assets and liabilities in the manner prescribed in that section.

1974, c. 57

Council deemed recreation committee

(2) The council of an area municipality shall be deemed to be a recreation committee under the *Ministry of Culture and Recreation Act* and the regulations thereunder, and a board of a community recreation centre under the *Community Recreation Centres Act*. 1974, c. 57, s. 135.

R.S.O. 1980, cc. 276, 80

Election

137. Section 59 of the *Education Act* applies to the election of the members of The Oxford County Board of Education and section 113 of the *Education Act* applies to the election of the members of The Oxford County Roman Catholic Separate School Board. 1974, c. 57, s. 136, *revised*.

R.S.O. 1980, c. 129, ss. 59, 113

Apportionment of operating costs of County library system

138. The operating costs of the County library system shall be apportioned amongst the area municipalities, with the exception of the City of Woodstock and the Town of Tillsonburg, in the proportion that the equalized, weighted assessment for each such area municipality respectively, as ascertained under section 86, bears to the total equalized, weighted assessment for such area municipalities. 1974, c. 57, s. 138.

FORM 1

(*Section 10 (3)*)

OATH OF ALLEGIANCE

I, ..., having been elected (*or appointed*) as Warden of the council of the County of Oxford, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me, etc.

1974, c. 57, Form 1.

FORM 2

(*Section 10 (3)*)

DECLARATION OF QUALIFICATION BY WARDEN

I, ..., having been elected (*or appointed*) as Warden of the council of the County of Oxford declare that:

1. I am a Canadian citizen or other British subject and am not a citizen or a subject of any foreign country.

2. I am of the full age of eighteen years.

3. I am not an employee of any area municipality or local board of any area municipality.

4. I have taken the oath of allegiance (Form 1) which I attach hereto.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me, etc.

1974, c. 57, Form 2.

CHAPTER 366

Paperback and Periodical Distributors Act

1.—(1) In this Act, Interpretation

(*a*) "business premises" does not include a dwelling;

(*b*) "Director" means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;

(*c*) "distributor" means a person who engages in the business of selling or distributing paperbacks or periodicals, or both, other than by sale by retail to an ultimate consumer;

(*d*) "dwelling" means any premises or any part thereof occupied as living accommodation;

(*e*) "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

(*f*) "Minister" means the Minister of Consumer and Commercial Relations;

(*g*) "non-resident" means,

(i) an individual who is not a Canadian citizen or has not been lawfully admitted to Canada for permanent residence,

(ii) an individual who is not ordinarily resident in Canada,

(iii) a corporation incorporated, formed or otherwise organized elsewhere than in Canada,

(iv) a corporation that is controlled directly or indirectly by non-residents as defined in subclause (i), (ii) or (iii),

(v) a trust established by a non-resident as defined in subclause (i), (ii), (iii) or (iv), or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or

(vi) a corporation that is controlled directly or indirectly by a trust mentioned in subclause (v);

(*h*) "paperback" means any printed matter other than a periodical that is published for general distribution to the public and that is not bound in a hard cover, and includes paperback books;

(*i*) "periodical" means any printed matter that is published for general distribution to the public and that purports to be a copy of one publication in a series of publications at regular intervals, and that is not bound in a hard cover but does not include a periodic publication that is devoted primarily to conveying current news;

(*j*) "person" means an individual, a partnership or a corporation or an association, syndicate or other organization of individuals;

(*k*) "Registrar" means the Registrar of Paperback and Periodical Distributors of the Ministry of Consumer and Commercial Relations;

(*l*) "resident" means a person, company or trust that is not a non-resident;

(*m*) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. 1971, c. 82, s. 1 (1); 1972, c. 1, ss. 23 (5), 50; 1974, c. 27, s. 1 (1, 2).

R.S.O. 1980, c. 274

Control

(2) For the purposes of subclause (1) (*g*) (iv), a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if,

(*a*) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(*b*) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation. 1974, c. 27, s. 1 (3).

Application of Act

(3) This Act does not apply to,

(*a*) distributors in respect of the distribution of paperbacks or periodicals, or both, that are published, printed and distributed primarily in Canada; or

(*b*) persons whose principal business is the publication in Canada of books that are not paperbacks or periodicals.

Idem

(4) Nothing in this Act shall be construed to have the effect of controlling, influencing or otherwise affecting the content of any paperback or periodical. 1971, c. 82, s. 1 (2, 3).

Registrar

2.—(1) There shall be a Registrar of Paperback and Periodical Distributors who shall be appointed by the Lieutenant Governor in Council.

Duties of Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. 1971, c. 82, s. 2.

Registration of distributor

3.—(1) No person shall carry on business as a distributor unless he is registered by the Registrar under this Act.

Effect of registration

(2) Registration under this Act shall not be construed as approval of any matter in the conduct of the business of the registrant except those matters specifically provided for in this Act. 1971, c. 82, s. 3.

Existing distributors deemed registered

4.—(1) Subject to subsection (2), every person carrying on business as a distributor immediately before the 14th day of June, 1971 shall be deemed to be registered under this Act.

Idem

(2) Every registration made under subsection (1) expires on the 1st day of October, 1971 unless before that date an application for registration is made and the material required by the regulations is filed in the manner prescribed by the regulations, unless sooner revoked under section 5. 1971, c. 82, s. 4.

Entitlement to registration

5.—(1) Subject to section 4, an applicant is entitled to registration by the Registrar except where,

(*a*) the applicant fails to comply with section 8 or 9, as the case may be; or

(*b*) the applicant fails to file the material required by the regulations.

Refusal to register

(2) Subject to section 6, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under subsection (1).

Revocation of registration

(3) Subject to section 6, the Registrar may revoke a registration where the registrant fails to comply with any provision of this Act or the regulations. 1971, c. 82, s. 5.

Notice of proposal to refuse or revoke

6.—(1) Where the Registrar proposes to refuse to grant or proposes to revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.

Powers of Registrar where no hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

Powers of Tribunal where hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal, or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration. 1971, c. 82, s. 6 (1-7).

Order of Tribunal effective, stay

(8) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of*

Consumer and Commercial Relations Act, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. 1971, c. 82, s. 6 (8); 1972, c. 1, s. 23 (5). R.S.O. 1980, c. 274

7.—(1) A registration authorizes the registrant to carry on business only in the area in Ontario determined by the Registrar and described in the certificate of registration issued by the Registrar and a registrant shall not carry on business outside the area so described. Business area

(2) The Registrar may reduce the area applied for by the registrant where, in his opinion, not to do so would lessen or be likely to lessen competition unduly in respect of channels or methods of distribution, contrary to the public interest. Decision of Registrar

(3) Where the Registrar proposes to reduce the area applied for, subsections 6 (1), (2), (3) and (6) apply with necessary modifications, in the same manner as to a proposal to revoke a registration. 1971, c. 82, s. 7 (1-3). Notice, etc.

(4) An appeal lies from a decision of the Registrar under this section to the Minister whose decision is final and section 11 of the *Ministry of Consumer and Commercial Relations Act* does not apply. 1971, c. 82, s. 7 (4); 1972, c. 1, s. 23 (5). Appeal to Minister

(5) Where an applicant requires a hearing under subsection 6 (2), the Tribunal shall hold a hearing and report to the Minister its finding of fact and recommendations. 1971, c. 82, s. 7 (5). Hearing by Tribunal

8.—(1) Subject to subsection (2), no person who is not a corporation shall carry on business in Ontario as a distributor unless, Residency requirements for individual

(*a*) he is a resident; or

(*b*) in the case of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

(2) A person who is not a corporation and who was carrying on business as a distributor immediately before the 14th day of June, 1971 and who on that day was in contravention of subsection (1) may continue to carry on business, subject to section 4, if, Idem

(*a*) in the case of an individual, his interest or any part thereof is not transferred to or for the benefit of a non-resident; or

(*b*) in the case of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof. 1971, c. 82, s. 8.

Residency requirements re corporations

9.—(1) No corporation shall carry on business in Ontario as a distributor if,

(*a*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;

(*b*) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident or over which he exercises control or direction, together with other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or

(*c*) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada. 1971, c. 82, s. 9 (1).

Idem

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries. 1974, c. 27, s. 2.

Idem

(3) A corporation that was carrying on business as a distributor immediately before the 14th day of June, 1971 and that on that day was in contravention of subsection (1) may continue to carry on business, subject to section 4,

(*a*) in the case of a contravention of clause (1) (*a*) or (*b*), if no transfer of equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clauses (1) (*a*) and (*b*); or

(*b*) in the case of a contravention of clause (1) (*c*), until the 14th day of June, 1972, but a corporation

incorporated on or after the 14th day of June, 1971 and before the 14th day of June, 1972 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses (1) (*a*) and (*b*), be registered in the place of the first mentioned corporation if the equity shares of the new corporation or beneficial interest therein, including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first mentioned corporation, but where the new corporation is in contravention of clause (1) (*a*) or (*b*), clause (*a*) of this subsection applies.

Associated shareholder

(4) For the purposes of this section, a shareholder shall be deemed to be associated with another shareholder if,

(*a*) one shareholder is a corporation of which the other shareholder is an officer or director;

(*b*) one shareholder is a partnership of which the other shareholder is a partner;

(*c*) one shareholder is a company that is controlled, directly or indirectly, by the other shareholder;

(*d*) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;

(*e*) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

(*f*) both shareholders are associated within the meaning of clauses (*a*) to (*e*) with the same shareholder.

Shares held jointly

(5) For the purposes of this section, where an equity share of a corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident. 1971, c. 82, s. 9 (2-4).

Inspection

10.—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a distributor

while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3 or 9.

Powers on inspection

(3) Upon an inspection under this section, the person inspecting,

(*a*) is entitled to free access to all books of account, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(*b*) may, upon giving a receipt therefor, remove any material referred to in clause (*a*) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copies

(4) Any copy made as provided in subsection (3) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. 1971, c. 82, s. 10.

Investigations by Director

11.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has contravened any of the provisions of this Act or the regulations, the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence or such conduct has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person

and examine books of account, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1980, c. 411

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books of account, papers, documents or things relevant to the subject-matter of the investigation.

Search warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books of account, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (*a*), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books of account, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books of account, papers, documents or things examined under clause (2) (*a*) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books of account, papers or documents, but such copying shall be carried out with

reasonable dispatch and the books of account, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books of account, papers, documents or things examined under clause (2) (*a*) or under subsection (4). 1971, c. 82, s. 11.

Matters confidential

12.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 10 or 11, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceedings with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1971, c. 82, s. 12.

Service

13.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry of Consumer and Commercial Relations. 1971, c. 82, s. 13 (1); 1972, c. 1, s. 23 (5).

Where service deemed to be made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Exception

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. 1971, c. 82, s. 13 (2, 3).

Restraining orders

14.—(1) Where it appears to the Director that any person does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1971, c. 82, s. 14.

Offences

15.—(1) Every person who, knowingly,

(*a*) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations; or

(*b*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Consent of Minister

(3) No proceedings under this section shall be instituted except with the consent of the Minister.

Limitation

(4) No proceeding under clause (1) (*a*) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem

(5) No proceeding under clause (1) (*b*) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1971, c. 82, s. 15

Certificate as evidence

16. A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1971, c. 82, s. 16.

Regulations

17. The Lieutenant Governor in Council may make regulations,

(*a*) providing for the registration of distributors;

(*b*) requiring distributors to furnish such returns, reports or other information as is prescribed;

(*c*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(*d*) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

(*e*) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;

(*f*) prescribing forms for the purposes of this Act and the regulations. 1971, c. 82, s. 17.

CHAPTER 367

Parks Assistance Act

Interpretation

1.—(1) In this Act,

(*a*) "approved park" means a park approved for assistance under this Act;

(*b*) "Minister" means the Minister of Natural Resources or such other member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;

R.S.C. 1970, c. I-6

(*c*) "municipality" includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue moneys under section 69 of that Act;

(*d*) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 337, s. 1 (1); 1972, c. 1, s. 86 (1).

School boards in territory without municipal organization

(2) An elementary or secondary school board having jurisdiction only in territory without municipal organization has the powers of the council of a municipality under this Act, and the provisions of this Act apply with necessary modifications to such a school board. R.S.O. 1970, c. 337, s. 1 (2).

Parks complementary to provincial parks

2. The parks established under this Act shall be maintained and operated for the use and enjoyment of the public in such a manner as will be complementary to the use and enjoyment of provincial parks. R.S.O. 1970, c. 337, s. 2.

Grants authorized

3.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make grants out of moneys appropriated therefor by the Legislature to any municipality to assist in,

(*a*) the acquisition of land for an approved park;

(*b*) the development of an approved park; and

(*c*) the conversion of a provincial or public park into an approved park. R.S.O. 1970, c. 337, s. 3 (1); 1972, c. 1, s. 86 (2).

Limitation, total grant

(2) The assistance granted under subsection (1) in respect of any one park shall not exceed $100,000 or 50 per cent of the total cost of acquiring the land and developing the park or of converting a provincial or public park into an approved park, whichever is the lesser.

Limitation, acquisition of land

(3) The assistance granted under clause (1) (*a*) for the acquisition of land shall not exceed $25,000 or 50 per cent of the total cost of acquiring the land, whichever is the lesser. R.S.O. 1970, c. 337, s. 3 (2, 3).

Establishment of parks by municipality

4.—(1) The council of any municipality may by by-law provide for the establishment of an approved park in the municipality or in territory without municipal organization in accordance with this Act, and may acquire by purchase or otherwise real and personal property for that purpose.

Joint undertaking

(2) The council of any municipality may enter into agreement with the council of any other municipality,

(*a*) for establishing an approved park in any municipality that is a party to an agreement or in territory without municipal organization;

(*b*) for the acquisition of real and personal property for that purpose; and

(*c*) for the development and operation of such park upon such terms as to contribution to the cost of the establishment, maintenance and operation thereof as may be agreed upon,

and the municipalities may acquire by purchase or otherwise real and personal property for such purposes. R.S.O. 1970, c. 337, s. 4.

Application for assistance

5. Applicants for assistance under this Act shall file with the Minister plans and specifications of the proposed park in accordance with the requirements of the regulations and such other information as the Minister may require. R.S.O. 1970, c. 337, s. 5; 1972, c. 1, s. 86 (3).

Duties of Minister

6.—(1) The Minister in dealing with an application for assistance under this Act shall determine the need for the proposed park, having regard to its location in relation to other parks in Ontario and the camping, picnicking and other facilities to be provided therein for the accommodation and enjoyment of the public. R.S.O. 1970, c. 337, s. 6 (1); 1972, c. 1, s. 86 (4).

Approval of plans

(2) Where an application for assistance is granted under this Act, the Minister shall approve the plans and specifications for the proposed approved park as submitted by the applicant or with such alterations as he considers desirable. R.S.O. 1970, c. 337, s. 6 (2); 1972, c. 1, s. 86 (5).

Operation of park

7. The approved park shall not be maintained or operated otherwise than in accordance with the approved plans and specifications without the approval of the Minister. R.S.O. 1970, c. 337, s. 7; 1972, c. 1, s. 86 (6).

Disposal of park

8. Where aid has been granted under this Act to assist in the establishment and development of a park, the park or any part thereof shall not be sold or disposed of without the approval of the Lieutenant Governor in Council. R.S.O. 1970, c. 337, s. 8; 1972, c. 1, s. 86 (7).

Management of park

9. Unless otherwise provided in an agreement, where a municipality has a board of park management under the *Public Parks Act* or the *Municipal Act*, it may appoint such board to manage and control any approved park established in the municipality. R.S.O. 1970, c. 337, s. 9.

R.S.O. 1980, cc. 417, 302

By-laws

10.—(1) Subject to this Act and the regulations and subject to the approval of the Minister, the council of any municipality that alone or in agreement with another municipality has established an approved park may pass by-laws,

(*a*) for the care, preservation, improvement, control and management of the park;

(*b*) regulating and controlling the use of lands in the park;

(*c*) prohibiting or regulating and controlling the use or keeping of horses, dogs and other animals in the park;

(*d*) prohibiting or regulating and controlling the erection, posting or other display of notices, signs, signboards and other advertising devices in the park;

(*e*) prohibiting or regulating and controlling the use, setting out and extinguishment of fires in the park;

(*f*) prohibiting or regulating and controlling pedestrian, vehicular, boat or air traffic in the park;

(*g*) prohibiting or regulating, controlling and licensing trades, businesses, amusements, sports, occupations and other activities or undertakings in the park;

(*h*) prescribing fees to be payable for the use of any facilities provided in the park;

(*i*) prescribing the maximum periods of stay of persons, vehicles, boats, vessels or aircraft in the park;

(*j*) prescribing fees to be payable for entrance into the park of persons, vehicles, boats and aircraft;

(*k*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 337, s. 10 (1); 1972, c. 1. s. 86 (8).

Application of R.S.O. 1980, c. 302, Pt. XIX

(2) Part XIX of the *Municipal Act* applies with necessary modifications to any by-law passed under this section. R.S.O. 1970, c. 337, s. 10 (2).

Regulations

11. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the terms and conditions upon which and the manner in which grants may be made under this Act;

(*b*) respecting plans and specifications to be submitted with applications for assistance;

(*c*) prescribing the uses to which an approved park may or may not be put, and the facilities and accommodations that may be provided therein;

(*d*) respecting any matter necessary or advisable to carry out the intent and purpose of this Act. R.S.O. 1970, c. 337, s. 11.

CHAPTER 368

Parkway Belt Planning and Development Act

Establishment of Parkway Belt Planning Area

1.—(1) The Minister of Housing, herein called the Minister, may, by order, establish as the Parkway Belt Planning Area the area of land in Ontario defined in the order. 1973, c. 53, s. 1 (1); O. Reg. 407/79.

Direction by Minister to prepare Parkway Belt Plan

(2) Where the Parkway Belt Planning Area has been established under subsection (1), the Minister shall include in the order a direction that there be carried out an investigation and survey of the environmental, physical, social and economic conditions in relation to the development of the Planning Area or any part thereof, and that there be prepared within a period of two years or such other period of time as the Minister in his order determines, the Parkway Belt Plan.

Order to be laid before Assembly

(3) Where any order is made under subsection (1), the Minister shall, on the day the order is made, or as soon thereafter as is practicable, lay the order before the Assembly if it is in session or, if not, at the commencement of the next ensuing session and the Assembly shall, by resolution, declare the order approved, revoked or varied. 1973, c. 53, s. 1 (2, 3).

Application of R.S.O. 1980, c. 354

2. The *Ontario Planning and Development Act*, except section 12, applies with necessary modifications to the Parkway Belt Planning Area, and the Parkway Belt Plan and the Parkway Belt Planning Area shall be deemed to be a development plan and a development planning area respectively within the meaning of that Act. 1974, c. 51, s. 1.

Agreement for fixed assessment

3.—(1) Where the use of any land within the Parkway Belt Planning Area is not in conformity with the use designated for such land in the Parkway Belt Plan or in any local plan covering such land, and the assessment of such land is increased because of such designation, the local municipality in which the land is situate and the owner of the land may, with the approval of the Minister, enter into an agreement providing for a fixed assessment for the land reflecting the use to which the land is being put, to apply to taxation for general, school and special purposes, but not to apply to taxation for local improvements.

Term of agreement

(2) Every such agreement shall be for such term of years not exceeding three as the Minister approves and the Minister may, in granting his approval, attach such terms and conditions thereto as he considers appropriate.

Procedure

(3) Where a parcel of land has a fixed assessment under subsection (1),

assessment

(*a*) the land shall be assessed in each year as if it did not have a fixed assessment;

taxes

(*b*) the treasurer of the local municipality shall calculate each year what the taxes would have been on the land if it did not have a fixed assessment; and

record

(*c*) the treasurer shall keep a record of the difference between the taxes paid each year and the taxes that would have been paid if the land did not have a fixed assessment and shall debit the land with this amount each year during the term of the agreement and shall add to such debit on the 1st day of January in each year such interest as may be agreed upon on the aggregate amount of the debit on such date.

Payment to municipality

(4) The Minister may, out of the moneys appropriated therefor by the Legislature, pay in each year to a local municipality in respect of which an agreement made under subsection (1) is in force, an amount of money equal to the difference in the taxes paid pursuant to the agreement and the taxes that would have been paid if the land covered by the agreement did not have a fixed assessment.

Apportionment

(5) Where a local municipality receives an amount under subsection (4), the council of the local municipality shall apportion the amount to each body in the same manner as taxes would have been apportioned if taxes had been levied in the normal manner on the assessment in accordance with clause (3) (*a*).

When agreement terminated

(6) Where the land or a part thereof that is subject to an agreement under subsection (1) ceases to be put to the use that was the basis for determining the fixed assessment, the agreement is thereupon terminated with respect to the land or such part thereof.

Registration of agreement

(7) Any agreement entered into under subsection (1) may be registered against the land affected by the agreement and when registered such agreement runs with the land and the provisions

thereof are binding upon and enure to the benefit of the owner of the land and, subject to the provisions of the *Registry Act*, any and all subsequent owners of the land. R.S.O. 1980, c. 445

(8) Where an agreement is for any reason terminated in respect of the whole of the land, the owner shall pay to the local municipality the amount debited against the land, including the amounts of interest debited in accordance with clause (3) (*c*). Termination of agreement, as to all lands

(9) Where an agreement is for any reason terminated in respect of a part of the land, the owner shall pay to the local municipality that portion of the amount debited against the land, including the amounts of interest debited in accordance with clause (3) (*c*), that is attributable to the portion of the land in respect of which the agreement is terminated. as to part of lands

(10) Where a local municipality receives a payment under subsection (8) or (9), the treasurer of the local municipality shall forthwith pay the amount of money received, including the amount of debited interest, to the Minister. Payment to Minister

(11) An agreement may be terminated on the 31st day of December in any year upon the owner of the land that is the subject of the agreement giving six months notice of such termination in writing to the local municipality. Termination of agreement by owner

(12) For the purposes of an apportionment required under any Act, the assessment used as the basis for such apportionment shall include the assessment determined under clause (3) (*a*). 1973, c. 53, s. 5. Apportionment

4.—(1) On and after the 4th day of June, 1973, the Minister may, in respect of any land within the Parkway Belt Planning Area, make land use regulations and in any such regulations the Minister may exercise any of the powers conferred upon the Minister under clause 35 (1) (*a*) of the *Planning Act*, and notwithstanding subsection 35 (4) of the *Planning Act*, any such regulation may be made that does not conform to a local plan in effect in the area covered by the regulation. Regulations R.S.O. 1980, c. 379

(2) Any regulation made by the Minister under subsection (1) may be retroactive in its application and may provide that it comes into force and has effect on and after a day not earlier than the 4th day of June, 1973. 1973, c. 53, s. 6. Effective date of regulations

CHAPTER 369

Partition Act

Interpretation

1. In this Act,

(*a*) "court" means the Supreme Court or the county or district court of the county or district in which the land or any part thereof is situate;

(*b*) "land" includes lands, tenements, and hereditaments, and all estate and interests therein. R.S.O. 1970, c. 338, s. 1.

Who may be compelled to make partition or sale

2. All joint tenants, tenants in common, and coparceners, all doweresses, and parties entitled to dower, tenants by the curtesy, mortgagees or other creditors having liens on, and all parties interested in, to or out of, any land in Ontario, may be compelled to make or suffer partition or sale of the land, or any part thereof, whether the estate is legal and equitable or equitable only. R.S.O. 1970, c. 338, s. 2.

Who may take proceedings for partition

3.—(1) Any person interested in land in Ontario, or the guardian appointed by a surrogate court of a minor entitled to the immediate possession of an estate therein, may take proceedings for the partition of such land or for the sale thereof under the directions of the court if such sale is considered by the court to be more advantageous to the parties interested.

When proceedings may be commenced

(2) Where the land is held in joint tenancy or tenancy in common or coparcenary by reason of a devise or an intestacy, no proceedings shall be taken until one year after the decease of the testator or person dying intestate in whom the land was vested. R.S.O. 1970, c. 338, s. 3.

Appointment of guardian to estate of person unheard of for three years

4.—(1) Where a person interested in the land has not been heard of for three years or upwards and it is uncertain whether such person is living or dead, the court upon the application of any one interested in the land may appoint a guardian to take charge of the interest of such person and of those who, in the event of his being dead, are entitled to his share or interest in the land.

Powers of such guardian

(2) The guardian shall, in the proceedings, represent the absent person and those who, if he is dead, are entitled to his share or interest in the land, and whether they or any of them are minors or otherwise under disability, and his acts in relation to such share or interest are binding on the absent person and all others claiming or entitled to claim under or through him, and are as valid as if done by him or them.

Power of the court to deal with the estate

(3) The court upon proof of such absence of such person as affords reasonable ground for believing such person to be dead, upon the application of the guardian, or any one interested in the estate represented by the guardian, may deal with the estate or interest of such person, or the proceeds thereof, and may order payment of the proceeds, or the income or produce thereof, to the person who, in the event of the absent person being dead, appears to be entitled to the same. R.S.O. 1970, c. 338, s. 4.

Sales including estates in dower or by the curtesy or for life

5.—(1) In an action or proceeding for partition or administration, or in an action or proceeding in which a sale of land in lieu of partition is ordered, and in which the estate of a tenant in dower or tenant by the curtesy or for life is established, if the person entitled to the estate is a party, the court shall determine whether the estate ought to be exempted from the sale or whether it should be sold, and in making such determination regard shall be had to the interests of all the parties.

What to pass to purchaser

(2) If a sale is ordered including such estate, all the estate and interest of every such tenant passes thereby, and no conveyance or release to the purchaser shall be required from such tenant, and the purchaser, his heirs and assigns, hold the premises freed and discharged from all claims by virtue of the estate or interest of any such tenant, whether the same be to any undivided share or to the whole or any part of the premises sold.

Compensation to owners of particular estates

(3) The court may direct the payment of such sum in gross out of the purchase money to the person entitled to dower or estate by the curtesy or for life, as is considered, upon the principles applicable to life annuities, a reasonable satisfaction for such estate, or may direct the payment to the person entitled of an annual sum or of the income or interest to be derived from the purchase money or any part thereof, as seems just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as is necessary. R.S.O. 1970, c. 338, s. 5.

Effect upon persons under a disability

6. A partition or sale made by the court is as effectual for the apportioning or conveying away of the estate or interest of a minor or mentally incompetent person, party to the proceedings by which the sale or partition is made or declared, as of a person competent to act for himself. R.S.O. 1970, c. 338, s. 7, *revised*.

Removal of proceedings into Supreme Court

7.—(1) Where proceedings under this Act are brought in a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Transmission of proceedings

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the proceedings are brought.

Removal of proceedings

(3) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* in the Supreme Court. R.S.O. 1970, c. 338, s. 8.

Appeal

8. An appeal lies to the Court of Appeal from any order made under this Act. R.S.O. 1970, c. 338, s. 9.

CHAPTER 370

Partnerships Act

Interpretation

1.—(1) In this Act,

(*a*) "business" includes every trade, occupation and profession;

(*b*) "court" includes every court and judge having jurisdiction in the case.

Idem

(2) A person is deemed to be "insolvent" within the meaning of this Act if he is adjudged a bankrupt under the *Bankruptcy Act* (Canada) or if he makes an assignment for the general benefit of his creditors, and "insolvency" has a meaning corresponding with "insolvent". R.S.O. 1970, c. 339, s. 1.

R.S.C. 1970, c. B-3

NATURE OF PARTNERSHIP

Partnership

2. Partnership is the relation that subsists between persons carrying on a business in common with a view to profit, but the relation between the members of a company or association that is incorporated by or under the authority of any special or general Act in force in Ontario or elsewhere, or registered as a corporation under any such Act, is not a partnership within the meaning of this Act. R.S.O. 1970, c. 339, s. 2.

Rules for determining existence of partnership

3. In determining whether a partnership does or does not exist, regard shall be had to the following rules:

1. Joint tenancy, tenancy in common, joint property, common property, or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof.

2. The sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived.

3. The receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such a share or payment, con-

tingent on or varying with the profits of a business, does not of itself make him a partner in the business, and in particular,

(*a*) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;

(*b*) a contract for the remuneration of a servant or agent or a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;

(*c*) a person being the widow, widower or child of a deceased partner and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner is not by reason only of such receipt a partner in the business or liable as such;

(*d*) the advance of money by way of loan to a person engaged or about to engage in a business on a contract with that person that the lender is to receive a rate of interest varying with the profits, or is to receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, provided that the contract is in writing and signed by or on behalf of all parties thereto;

(*e*) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business, is not by reason only of such receipt a partner in the business or liable as such. R.S.O. 1970, c. 339, s. 3.

Insolvency

4. In the event of a person to whom money has been advanced by way of loan upon such a contract as is mentioned in section 3, or of a buyer of the goodwill in consideration of a share of the profits of the business, becoming insolvent or entering into an arrangement to pay his creditors less than 100 cents in the dollar or dying in insolvent circumstances, the lender of the loan is not entitled to recover anything in respect of his loan, and the seller of the goodwill is not entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer, for valuable consideration in money or money's worth, are satisfied. R.S.O. 1970, c. 339, s. 4.

Meaning of "firm"

5. Persons who have entered into partnership with one another are, for the purposes of this Act, called collectively a firm, and the name under which their business is carried on is called the firm name. R.S.O. 1970, c. 339, s. 5.

RELATION OF PARTNERS TO PERSONS DEALING WITH THEM

Power of partner to bind firm

6. Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership, and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners unless the partner so acting has in fact no authority to act for the firm in the particular matter and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner. R.S.O. 1970, c. 339, s. 6.

Partners bound by acts on behalf of firm

7. An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm by a person thereto authorized, whether a partner or not, is binding on the firm and all the partners, but this section does not affect any general rule of law relating to the execution of deeds or negotiable instruments. R.S.O. 1970, c. 339, s. 7.

Partner using credit of firm for private purposes

8. Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partners, but this section does not affect any personal liability incurred by an individual partner. R.S.O. 1970, c. 339, s. 8.

Effect of notice that firm not bound by act of partner

9. If it is agreed between the partners to restrict the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement. R.S.O. 1970, c. 339, s. 9.

Liability of partners

10. Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner, and after his death his estate is also severally liable in a due course of administration for such debts and obligations so far as they remain unsatisfied, but subject to the prior payment of his separate debts. R.S.O. 1970, c. 339, s. 10.

Liability of firm for wrongs

11. Where by any wrongful act or omission of a partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to a

person not being a partner of the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act. R.S.O. 1970, c. 339, s. 11.

Misapplication of money or property received for or in custody of the firm

12. In the following cases, namely,

(*a*) where one partner, acting within the scope of his apparent authority, receives the money or property of a third person and misapplies it; and

(*b*) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss. R.S.O. 1970, c. 339, s. 12.

Liability for wrongs joint and several

13. Every partner is liable jointly with his co-partners and also severally for everything for which the firm, while he is a partner therein, becomes liable under section 11 or 12. R.S.O. 1970, c. 339, s. 13.

Improper employment of trust property for partnership purposes

14. If a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein, but,

(*a*) this section does not affect any liability incurred by any partner by reason of his having notice of a breach of trust; and

(*b*) nothing in this section prevents trust money from being followed and recovered from the firm if still in its possession or under its control. R.S.O. 1970, c. 339, s. 14.

Persons liable by "holding out"

15.—(1) Every person, who by words spoken or written or by conduct represents himself or who knowingly suffers himself to be represented as a partner in a particular firm, is liable as a partner to any person who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the persons so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

Continuing business after death of partner

(2) Where after a partner's death the partnership business is continued in the old firm name, the continued use of that name or of the deceased partner's name as part thereof does

not of itself make his executor's or administrator's estate or effects liable for any partnership debts contracted after his death. R.S.O. 1970, c. 339, s. 15.

Admissions and representations of partners

16. An admission or representation made by a partner concerning the partnership affairs and in the ordinary course of its business is evidence against the firm. R.S.O. 1970, c. 339, s. 16.

Notice to acting partner to be notice to the firm

17. Notice to a partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner. R.S.O. 1970, c. 339, s. 17.

Liability commences with admission to firm

18.—(1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

Liability for debts, etc., incurred before retirement

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

Agreement discharging retiring partner

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either express or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted. R.S.O. 1970, c. 339, s. 18.

Revocation of continuing guaranty by change in firm

19. A continuing guaranty or cautionary obligation given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transaction of which, the guaranty or obligation was given. R.S.O. 1970, c. 339, s. 19.

RELATION OF PARTNERS TO ONE ANOTHER

Variation by consent of terms of partnership

20. The mutual rights and duties of partners, whether ascertained by agreement or defined by this Act, may be varied by the consent of all the partners, and such consent may be either expressed or inferred from a course of dealing. R.S.O. 1970, c. 339, s. 20.

Partnership property

21.—(1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business,

are called in this Act "partnership property", and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

Devolution of land

(2) The legal estate or interest in land that belongs to a partnership devolves according to the nature and tenure thereof and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

Co-owners of land

(3) Where co-owners of an estate or interest in land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits to be used in like manner, the land or estate so purchased belongs to them, in the absence of an agreement to the contrary, not as partners, but as co-owners for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of purchase. R.S.O. 1970, c. 339, s. 21.

Property bought with partnership money

22. Unless the contrary intention appears, property bought with money belonging to the firm shall be deemed to have been bought on the account of the firm. R.S.O. 1970, c. 339, s. 22.

Conversion of land bought with partnership money into personalty

23. Where land or any heritable interest therein becomes partnership property, unless the contrary intention appears, it is to be treated as between the partners, including the representatives of a deceased partner, and also as between the heirs of a deceased partner and his executors or administrators as personal or movable and not real or heritable estate. R.S.O. 1970, c. 339, s. 23.

Rules as to interests and duties of partners

24. The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners, by the following rules:

1. All the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm.

2. The firm must indemnify every partner in respect of payments made and personal liabilities incurred by him,

(*a*) in the ordinary and proper conduct of the business of the firm; or

(*b*) in or about anything necessarily done for the preservation of the business or property of the firm.

3. A partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital that he has agreed to subscribe is entitled to interest at the rate of 5 per cent per annum from the date of the payment or advance.

4. A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him.

5. Every partner may take part in the management of the partnership business.

6. No partner is entitled to remuneration for acting in the partnership business.

7. No person may be introduced as a partner without the consent of all existing partners.

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners.

9. The partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may, when he thinks fit, have access to and inspect and copy any of them. R.S.O. 1970, c. 339, s. 24.

Expulsion of partner

25. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners. R.S.O. 1970, c. 339, s. 25.

Retirement from partnership at will

26.—(1) Where no fixed term is agreed upon for the duration of the partnership, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners.

Notice of retirement

(2) Where the partnership was originally constituted by deed, a notice in writing, signed by the partner giving it, is sufficient for that purpose. R.S.O. 1970, c. 339, s. 26.

Presumption of continuance after expiry of term

27.—(1) Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term, so far as is consistent with the incidents of a partnership at will.

Arises from continuance of business

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term without any settlement or liquidation of the partnership affairs shall be presumed to be a continuance of the partnership. R.S.O. 1970, c. 339, s. 27.

Duty as to rendering accounts

28. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives. R.S.O. 1970, c. 339, s. 28.

Accountability for private profits

29.—(1) Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership or from any use by him of the partnership property, name or business connection.

Extends to survivors and representatives of deceased

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner and before its affairs have been completely wound up, either by a surviving partner or by the representatives of the deceased partner. R.S.O. 1970, c. 339, s. 29.

Duty of partner not to compete with firm

30. If a partner, without the consent of the other partners, carries on a business of the same nature as and competing with that of the firm, he must account for and pay over to the firm all profits made by him in that business. R.S.O. 1970, c. 339, s. 30.

Rights of assignee of share in partnership

31.—(1) An assignment by a partner of his share in the partnership, either absolute or by way of mortgage or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee must accept the account of profits agreed to by the partners.

On dissolution

(2) In the case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution. R.S.O. 1970, c. 339, s. 31.

DISSOLUTION OF PARTNERSHIP

Dissolution by expiry of term or notice

32. Subject to any agreement between the partners, a partnership is dissolved,

(*a*) if entered into for a fixed term, by the expiration of that term;

(*b*) if entered into for a single adventure or undertaking, by the termination of that adventure or undertaking; or

(*c*) if entered into for an undefined time, by a partner giving notice to the other or others of his intention to dissolve the partnership, in which case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice. R.S.O. 1970, c. 339, s. 32.

Dissolution by death or insolvency of partner

33.—(1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or insolvency of a partner.

Where partner's share charged for separate debt

(2) A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Act for his separate debt. R.S.O. 1970, c. 339, s. 33.

By illegality of business

34. A partnership is in every case dissolved by the happening of any event that makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership. R.S.O. 1970, c. 339, s. 34.

By the court

35. On application by a partner, the court may order a dissolution of the partnership,

(*a*) when a partner is found mentally incompetent by inquisition or is shown to the satisfaction of the court to be of permanently unsound mind, in either of which cases the application may be made as well on behalf of that partner by his committee or next friend or person having title to intervene as by any other partner;

(*b*) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;

(*c*) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the

court, regard being had to the nature of the business, is calculated to prejudicially affect the carrying on of the business;

(*d*) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;

(*e*) when the business of the partnership can only be carried on at a loss; or

(*f*) when in any case circumstances have arisen that in the opinion of the court render it just and equitable that the partnership be dissolved. R.S.O. 1970, c. 339, s. 35.

Rights of persons dealing with firm against apparent members

36.—(1) Where a person deals with a firm after a change in its constitution, he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

Notice

(2) An advertisement in *The Ontario Gazette* shall be notice as to persons who had not dealings with the firm before the dissolution or change so advertised.

Estate of dead or insolvent partner, how far liable

(3) The estate of a partner who dies, or who becomes insolvent, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, insolvency, or retirement. R.S.O. 1970, c. 339, s. 36.

Right to give notice of dissolution

37. On the dissolution of a partnership or retirement of a partner, any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, that cannot be done without his or their concurrence. R.S.O. 1970, c. 339, s. 37.

Continuing authority of partners for purposes of winding up

38. After the dissolution of a partnership, the authority of each partner to bind the firm and the other rights and obligations of the partners continue notwithstanding the dissolution so far as is necessary to wind up the affairs of the partnership and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise; provided that the firm is in no case bound by the acts of a partner who

has become insolvent; but this proviso does not affect the liability of a person who has, after the insolvency, represented himself or knowingly suffered himself to be represented as a partner of the insolvent. R.S.O. 1970, c. 339, s. 38.

Rights of partners as to application of partnership property

39. On the dissolution of a partnership every partner is entitled, as against the other partners in the firm and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm, and for that purpose any partner or his representative may, on the termination of the partnership, apply to the court to wind up the business and affairs of the firm. R.S.O. 1970, c. 339, s. 39.

Apportionment of premium on premature dissolution

40. Where one partner paid a premium to another on entering into a partnership for a fixed term and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless,

(*a*) the dissolution is, in the judgment of the court, wholly or chiefly due to the misconduct of the partner who paid the premium; or

(*b*) the partnership has been dissolved by an agreement containing no provision for a return of a part of the premium. R.S.O. 1970, c. 339, s. 40.

Rights where partnership dissolved for fraud or misrepresentations

41. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

(*a*) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him; and

(*b*) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and

(*c*) to be indemnified by the person guilty of the fraud or making the representation against all the debts and liabilities of the firm. R.S.O. 1970, c. 339, s. 41.

Right of outgoing partner as to share in profits after dissolution

42.—(1) Where any member of a firm dies or otherwise ceases to be a partner and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of an agreement to the contrary, the outgoing partner or his estate is entitled, at the option of himself or his representatives, to such share of the profits made since the dissolution as the court finds to be attributable to the use of his share of the partnership assets, or to interest at the rate of 5 per cent per annum on the amount of his share of the partnership assets.

Proviso as to option of remaining partners to purchase share

(2) Where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits, but if any partner, assuming to act in exercise of the option, does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section. R.S.O. 1970, c. 339, s. 42.

Retiring or deceased partner's share to be a debt

43. Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share, is a debt accruing at the date of the dissolution or death. R.S.O. 1970, c. 339, s. 43.

Rules for distribution of assets on final settlement of accounts

44. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

1. Losses, including losses and deficiencies of capital, are to be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits.

2. The assets of the firm, including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, are to be applied in the following manner and order,

(*a*) in paying the debts and liabilities of the firm to persons who are not partners therein;

(*b*) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;

(*c*) in paying to each partner rateably what is due from the firm to him in respect of capital;

(*d*) the ultimate residue, if any, is to be divided among the partners in the proportion in which profits are divisible. R.S.O. 1970, c. 339, s. 44.

Saving as to rules of equity and common law

45. The rules of equity and of common law applicable to partnership continue in force, except so far as they are inconsistent with the express provisions of this Act. R.S.O. 1970, c. 339, s. 45.

Act to be subject to R.S.O. 1980, cc. 241, 371

46. This Act is to be read and construed as subject to the *Limited Partnerships Act* and the *Partnerships Registration Act*. R.S.O. 1970, c. 339, s. 46.

CHAPTER 371

Partnerships Registration Act

Filing of partnership declaration

1.—(1) Persons associated in partnership for trading, manufacturing or mining purposes shall cause to be filed with the Registrar of Partnerships a declaration in writing.

Exception

(2) A declaration is not required to be filed under this Act where all the members of a partnership are corporations or where the person to whom section 9 applies is a corporation and each corporation has complied with the requirements of section 2 of the *Corporations Information Act*. R.S.O. 1980, c. 96

Business name

(3) The business of a partnership shall be conducted under the name of the partnership. 1973, c. 7, s. 1, *part*.

Place of filing

2. Every document required or permitted to be filed with the Registrar of Partnerships under this Act may be filed in the place prescribed by the regulations. 1973, c. 7, s. 1, *part, revised*.

Requisites of declaration

3. The declaration shall state,

(*a*) the full name and residence address or address for service of each partner, giving street and number, if any;

(*b*) the name under which they carry on or intend to carry on business;

(*c*) the time during which the partnership has subsisted;

(*d*) that the persons therein named are the only members of the partnership;

(*e*) except in respect of a partner that is a corporation, which of the partners are of the full age of eighteen years and, where a partner is less than eighteen years of age, the date of his birth; and

(*f*) such other information as is required by the regulations made under this Act. R.S.O. 1970, c. 340, s. 2; 1973, c. 7, s. 2.

When declaration to be filed

4. Every declaration shall be filed within sixty days next after the formation of the partnership or, in the case of a

declaration under section 9, within sixty days of the time when the name or designation is first used. 1973, c. 7, s. 3, *part*.

Declaration where changes

5. Whenever any change takes place in the membership of a partnership, in the residence address or address for service of any partner or in the name of a partnership, the partners shall cause to be filed within sixty days after the change takes place a new declaration setting out the information required by section 3. 1973, c. 7, s. 3, *part*.

Effect of allegations in the declaration

6. The statements made in any declaration are not controvertible by any person who has signed it nor as against any person not being a member of the partnership by any person who has signed it, or who was actually a member of the partnership therein mentioned at the time the declaration was made. R.S.O. 1970, c. 340, s. 5.

Declaration of dissolution of partnership

7. Upon the dissolution of a partnership any or all of the persons who composed the partnership may sign a declaration certifying the dissolution of the partnership. R.S.O. 1970, c. 340, s. 6; 1973, c. 7, s. 4.

Effect of failure to file declaration of change or dissolution

8.—(1) No person who signed the declaration under section 1 or a subsequent declaration under section 5 or 17 shall be deemed as against creditors to have ceased to be a partner until a declaration of dissolution under section 7 is made and filed or a declaration is filed under section 5 omitting his name. 1973, c. 7, s. 5.

Liability of partners failing to make declaration

(2) Nothing herein exempts from liability any person who being a partner, fails to make and file the prescribed declaration, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and, if judgment is recovered against them, he may be sued on the original cause of action upon which the judgment was recovered. R.S.O. 1970, c. 340, s. 7 (2).

Where business name indicates plurality

9.—(1) Every person engaged in business for trading, manufacturing or mining purposes who is not associated in partnership with any other person but uses as his business style,

(*a*) a name or designation other than his own name; or

(*b*) his own name with the addition of the expression "and company" or some other expression indicating a plurality of members in the firm,

shall sign a declaration and file it with the Registrar of Partnerships. R.S.O. 1970, c. 340, s. 8 (1); 1973, c. 7, s. 6 (1).

Requisites of declaration

(2) The declaration shall state,

(*a*) the full name and residence address or address for service, giving street and number, if any, of the person making the declaration;

(*b*) the name or designation under which he carries on or intends to carry on business, and the date when the name or designation was first used by him;

(*c*) that no other person is associated with him in partnership;

(*d*) that the person is at least eighteen years of age or the date of his birth if he is under the age of eighteen years; and

(*e*) such other information as is required by the regulations made under this Act. R.S.O. 1970, c. 340, s. 8 (2); 1973, c 7, s. 6 (2-3).

Declaration where changes

(3) Whenever any change takes place in the residence address or address for service of the person making the declaration or in the name or designation under which he carries on business, he shall cause to be filed within sixty days after the change takes place a new declaration setting out the information required by subsection (2). 1973, c. 7, s. 6 (4).

Extension of time for filing

10. Subject to subsection 17 (2), the Registrar of Partnerships may extend the period for filing any declaration under this Act upon being satisfied that the failure to file arose from misadventure, ignorance or some other cause that constitutes a reasonable excuse and that the partners or other declarant have acted and are acting in good faith. 1973, c. 7, s. 7.

Failure to file declaration

11.—(1) No partnership in respect of which a declaration has not been filed as required by this Act and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in connection with the business carried on by the partnership.

Idem

(2) No person who has failed to file a declaration as required by section 9 is capable of maintaining any action or other proceeding in any court in Ontario in respect of any

contract made in connection with the business in respect of which a declaration is required to be filed. R.S.O. 1970, c. 340, s. 9.

Offences

12.—(1) Every person who,

(*a*) contravenes any provision of this Act or the regulations; or

(*b*) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than $2,000 or, if such person is a corporation, to a fine of not more than $20,000.

False statements wilful

(2) No person is guilty of an offence referred to in clause (1) (*b*) if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Liability of directors and officers

(3) Where a corporation is guilty of an offence under subsection (1), every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than $2,000. 1973, c. 7, s. 8, *part*.

Records

13. The Registrar of Partnerships shall keep such records of declarations filed under this Act as are required by the regulations under this Act. R.S.O. 1970, c. 340, s. 12; 1973, c. 7, s. 9.

Butter or cheese manufacturing associations excepted

14. This Act does not apply to associations of individuals formed for the manufacture of butter or cheese, where such individuals contribute produce from their dairies for that purpose. R.S.O. 1970, c. 340, s. 13.

Rights of partners *inter se*

15. Nothing in this Act affects the rights of partners with regard to each other. R.S.O. 1970, c. 340, s. 14.

Regulations

16. The Lieutenant Governor in Council may make regulations,

(*a*) respecting the books and records to be kept by the Registrar of Partnerships for the purposes of this Act;

(*b*) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;

(*c*) respecting the form of any document required to be filed under this Act;

(*d*) respecting the custody and destruction of declarations;

(*e*) prescribing the place for filing documents under this Act with the Registrar of Partnerships after the 1st day of January, 1975. R.S.O. 1970, c. 340, s. 15 (1); 1973, c. 7, s. 10.

Expiration of declarations

17. Every declaration filed under this Act expires in five years after its date of filing, subject to renewal by filing a new declaration in every case for a further period of five years from time to time. 1973, c. 7, s. 11, *part, revised*.

CENTRAL REGISTRY

Central registry

R.S.O. 1980, c. 241

18. Notwithstanding anything in this Act or in the *Limited Partnerships Act*, the Lieutenant Governor in Council may make regulations providing for the establishment of a central registry of all declarations, certificates and records under this Act and under the *Limited Partnerships Act* and may in the regulations make provision,

(*a*) for the filing in the central registry of declarations under this Act and certificates under the *Limited Partnerships Act* in respect of any registry division;

(*b*) respecting the books and records to be kept in the central registry;

(*c*) requiring the payment of fees to the Registrar of Partnerships upon the performance of any official function under this Act;

(*d*) prescribing forms and providing for their use;

(*e*) providing for the microfilming of declarations and certificates filed in the central registry;

(*f*) governing the custody and destruction of declarations and certificates filed in the central registry. R.S.O. 1970, c. 340, s. 16.

Registrar of Partnerships

19.—(1) There shall be a Registrar of Partnerships who, subject to subsection (2), shall be appointed by the Lieutenant Governor in Council. R.S.O. 1970, c. 340, s. 17 (1).

Deputies

(2) The Registrar of Partnerships may designate one or more persons on the staff of his office to act on his behalf.

Functions

(3) It shall be the function of the Registrar of Partnerships to supervise the operation of the central registry and the centralization of records under this Act.

Seal

(4) The Registrar of Partnerships shall have a seal of office in such form as the Lieutenant Governor in Council may approve. R.S.O. 1970, c. 340, s. 17 (3-5).

Location of central registry

20. The central registry may be located in such place as the Lieutenant Governor in Council may order. R.S.O. 1970, c. 340, s. 18, *revised*.

CHAPTER 372

Pawnbrokers Act

Interpretation

1. In this Act,

(*a*) "municipality" means a city, town, village or township;

(*b*) "pawnbroker" means a person who carries on the business of taking by way of pawn or pledge any article for the repayment of money lent thereon;

(*c*) "pawner" means a person who delivers an article for pawn to a pawnbroker;

(*d*) "pledge" means an article pawned with a pawnbroker;

(*e*) "shop" includes any place where the business of a pawnbroker is carried on. R.S.O. 1970, c. 341, s. 1.

Licences

2.—(1) No person shall carry on the business of a pawnbroker unless he obtains a licence therefor under the hand of the treasurer of the municipality in which he carries on or proposes to carry on business or unless he obtains a renewal of his licence annually, but no licence shall be issued or renewed unless under the authority of a by-law of the municipality.

Fee for licence

(2) The sum of $60, or such other sum as the council of the municipality may prescribe, shall be paid for every licence or renewal thereof to the treasurer for the use of the municipality. R.S.O. 1970, c. 341, s. 2.

Application for renewal

3.—(1) No application for a licence or renewal of a licence to carry on the business of a pawnbroker shall be refused until after the applicant has been afforded a hearing by the licence issuing authority.

Continuation of licence pending renewal

(2) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, the holder of a licence to carry on the business of a pawnbroker has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) until the application has been finally determined by the licence issuing authority or, where there is an appeal from the decision of the licence issuing authority, until the last day for launching an appeal or such later date as may be fixed by the body to whom the appeal may be taken. 1971, c. 50, s. 65.

Licence to cover only one shop

4. No person shall, by virtue of one licence, carry on business as a pawnbroker in more than one shop. R.S.O. 1970, c. 341, s. 3.

Licence to partners

5. Where two or more persons carry on business as pawnbrokers in partnership in the same shop, only one licence is necessary. R.S.O. 1970, c. 341, s. 4.

Security

6. Every pawnbroker shall give to the municipality security to the satisfaction of the treasurer in the sum of $2,000 for the due observance by him of this Act. R.S.O. 1970, c. 341, s. 5.

Business sign and notice of rights, rates and charges

7. Every pawnbroker shall,

(*a*) keep exhibited in large, legible characters on a sign over the front door of his shop his name and the word "Pawnbroker"; and

(*b*) keep displayed conspicuously in his shop a notice in large, legible characters so as to be visible to persons pawning articles or redeeming pledges, showing,

(i) rights of redemption of pledges,

(ii) rates of interest authorized by law to be taken by pawnbrokers for sums lent, and

(iii) maximum charges authorized by this Act. R.S.O. 1970, c. 341, s. 6.

Restrictions upon pawnbrokers

8. A pawnbroker shall not,

(*a*) purchase any article or receive or take any article in pawn from any person who appears to the pawnbroker to be under the age of eighteen years or to be under the influence of alcohol or drugs;

(*b*) purchase or take in pawn a pawnticket issued by himself or any other pawnbroker;

(*c*) employ or permit any person under sixteen years of age to take any pledge in pawn;

(*d*) carry on business as a pawnbroker on Sunday, Good Friday, Christmas Day or any day appointed by proclamation of the Governor General or the Lieutenant Governor as a public holiday, or on any other day before 8 o'clock in the morning or after 8 o'clock in the evening;

(*e*) purchase, sell or otherwise deal with any pledge while in pawn with him, except in accordance with this Act;

(*f*) suffer any pledge while in pawn with him to be redeemed with a view to his purchasing it;

(*g*) make any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale or disposition thereof, within the time of redemption;

(*h*) take in pawn any cross, medal, insignia or other decoration granted by or with the approval of Her Majesty; or

(*i*) melt any gold, silver, platinum or other precious metal that was pawned with him, that was not redeemed, and that has become his absolute property under this Act, unless he has been authorized so to do by the council of the municipality in which he carries on business. R.S.O. 1970, c. 341, s. 7.

Pawnbroker's book

9.—(1) Every pawnbroker who takes an article in pawn shall, before any money is lent thereon, enter in a book to be kept by him for that purpose,

(*a*) the day, month and year in which the pledge was taken;

(*b*) the full name, address and a description of the person delivering the article for pawn reasonably sufficient to identify such person, including sex, and estimated age, height, complexion and full particulars of identification if produced and, where the person who delivers the article for pawn states that he is the agent of its owner for the purpose of pawning it, the name and address of the owner;

(*c*) a description of the pledge reasonably sufficient to identify it; and

(*d*) the sum lent on the pledge.

Where no identification

(2) Where a person tendering an article for pawn refuses or is unable to produce any identification, the pawnbroker shall enter in his book a note thereof, which shall be deemed to constitute compliance with the identification requirements of clause (1) (*b*).

Entries to be numbered consecutively

(3) The entries shall be numbered in the book consecutively in the order in which the articles are pawned. R.S.O. 1970, c. 341, s. 8.

Pawnticket

10. At the time of taking an article in pawn, the pawnbroker shall give the pawner a pawnticket containing,

(*a*) the pawnbroker's name and business address;

(*b*) the name of the pawner;

(*c*) the day, month and year in which the pledge was taken in pawn;

(*d*) the number of the entry of the pledge in the pawnbroker's book;

(*e*) a description of the pledge;

(*f*) the sum lent on the pledge;

(*g*) the rate of interest charged for the sum lent;

(*h*) the charge for the pawnticket; and

(*i*) the charge for storage, if any. R.S.O. 1970, c. 341, s. 9.

Where article suspected to have been stolen

11. Where a pawnbroker has reasonable cause to suspect that an article offered to him has been stolen or otherwise unlawfully obtained, he shall forthwith report the matter to a member of the police force of the municipality in which he carries on business. R.S.O. 1970, c. 341, s. 10.

Alphabetical list of pawners

12. Every pawnbroker shall keep up to date during each year a list, arranged alphabetically, of the names of the persons who have pawned articles with him, and each such list shall be kept for not less than one year after the end of the year during which it was compiled. R.S.O. 1970, c. 341, s. 11.

Daily report to police

13.—(1) Every pawnbroker shall before noon of every business day make a report either for the chief of police or for such other person as is designated by by-law of the council of the municipality.

Contents

(2) Such reports shall contain, in respect of every transaction made on the next preceding business day, all the information required under section 9 to be entered in the pawnbroker's book.

Form

(3) Such reports may be on forms to be furnished by the municipality or may be copies of the pawnbroker's book reproduced by any means whatsoever so long as the copy is legible. R.S.O. 1970, c. 341, s. 12.

Identification of pledge

14. Each pledge shall be identified by a number that corresponds with the number of the pawnticket and the entry of the transaction in the pawnbroker's book, and, when the pledge is redeemed, the pawnbroker shall record the amount of interest taken and his charges and shall keep the record for not less than one year after redemption. R.S.O. 1970, c. 341, s. 13.

Inspection by police

15. Every police officer and constable shall at all times be given access to and may inspect a pawnbroker's books, papers and pledges, and when so engaged may have with him such other persons as he considers advisable. R.S.O. 1970, c. 341, s. 14.

Production of ticket

16. Except as hereinafter provided, a pawnbroker is not bound to deliver a pledge until the pawnticket for it is produced and delivered to him. R.S.O. 1970, c. 341, s. 15.

Rights of holder of ticket

17. The holder for the time being of a pawnticket shall, as between the pawner and the pawnbroker, be presumed to be the person entitled to redeem the pledge, and, subject to this Act, the pawnbroker shall accordingly, on payment of the sum lent, lawful interest and charges, deliver the pledge to the person producing the pawnticket. R.S.O. 1970, c. 341, s. 16.

Pawnticket may be non-transferable

18. Notwithstanding section 17, where a pawnbroker and a pawner agree that the pawnticket shall not be transferable and such condition is clearly shown upon the pawnticket, the pawner only may redeem the pledge. R.S.O. 1970, c. 341, s. 17.

Liability of pawnbroker in case of fire

19.—(1) Where a pledge is destroyed or damaged by or in consequence of fire, lightning or tempest or any additional peril defined in a standard fire insurance additional perils

supplemental contract, the pawnbroker nevertheless is liable, on application within the period during which the pledge would have been redeemable, to pay the value of the pledge after deducting the sum lent, lawful interest and charges, such value to be the sum lent, lawful interest and charges and 25 per cent on the sum lent.

Insurable interest

(2) A pawnbroker has an insurable interest in the pledge to the extent of the value so estimated. R.S.O. 1970, c. 341, s. 18.

Right of redemption where sum lent $15 or less

20. Where the sum lent upon a pledge is $15 or less, it may be redeemed at any time within one year after the day on which it was pawned by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property. R.S.O. 1970, c. 341, s. 19.

Idem, where sum lent is more than $15 and not more than $30

21.—(1) Where the sum lent upon a pledge is more than $15 but not more than $30, the pawnbroker may at any time after it has been in pawn for at least one year send to the pawner by first-class prepaid mail to the address shown in his book to be the address of the pawner a notice identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of mailing the notice, it becomes the pawnbroker's absolute property.

Idem

(2) Any such pledge may be redeemed at any time within the fifteen days next after the day of mailing the notice by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property. R.S.O. 1970, c. 341, s. 20.

Idem, where sum lent is more than $30:

notice by mail and newspaper

22.—(1) Where the sum lent upon a pledge is more than $30, the pawnbroker may at any time after it has been in pawn for at least one year send to the pawner by first-class prepaid mail to the address shown by his book to be the address of the pawner a notice identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of mailing the notice, a final notice will be published in a newspaper having general circulation in the municipality in which the pawnbroker carries on business identifying the transaction and stating that, unless the pledge is redeemed within the fifteen days next after the day of publication of the notice, it becomes the pawnbroker's absolute property.

(2) If the pledge is not redeemed within the fifteen days next after the mailing of the first notice mentioned in subsection (1), the pawnbroker may at any time thereafter give the final notice mentioned in that subsection. Idem

(3) Any such pledge may be redeemed at any time within the fifteen days next after the mailing of the first notice mentioned in subsection (1) or within the fifteen days next after the day of publication of the final notice mentioned in that subsection, as the case may be, by tendering to the pawnbroker the pawnticket, the sum borrowed and the lawful interest and charges, and, if it is not so redeemed, it becomes the pawnbroker's absolute property. R.S.O. 1970, c. 341, s. 21. Idem

23.—(1) The one-year period mentioned in sections 20, 21 and 22 commences on the day following the day on which the pledge was put in pawn and ends with the close of business on the 365th day thereafter. Calculation of 1-year period

(2) The fifteen-day period mentioned in sections 21 and 22 commences on the day following the day on which the notice was mailed or the final notice was published, as the case may be, and ends with the close of business on the fifteenth day thereafter. Calculation of 15-day period

(3) When a period mentioned in subsection (1) or (2) ends on a day on which business is not carried on, the next business day is included in the period. R.S.O. 1970, c. 341, s. 22. Exception

24. As soon as a notice mentioned in section 21 or 22 has been sent or published, the pawnbroker shall make or cause to be made an affidavit as to the sending or publication, as the case may be, of the notice, and such affidavit shall be kept by the pawnbroker for at least two years. R.S.O. 1970, c. 341, s. 23. Affidavit as to notices

25.—(1) If, during the period that a pledge is redeemable, the pawner tenders to the pawnbroker the pawnticket, the sum lent and the lawful interest and charges and the pawnbroker neglects or refuses without reasonable cause to deliver back the goods so pawned, the pawner may make oath thereof before a justice of the peace, who shall summon such person before him, and shall examine on oath the parties and their witnesses touching the matter. Where pledge not given back upon tender of moneys owing

(2) If tender of the pawnticket with the sum lent and the lawful interest and charges is proved to have been made within such time, then, on payment by the pawner of the total amount owed or, if the pawnbroker refuses to accept Tender and consequences of refusal

such amount on tender before the justice, the justice shall, by order, direct the pledge to be forthwith delivered to the pawner or, if it is not so delivered, shall direct the pawnbroker to make satisfaction for the value thereof to be fixed by the justice in accordance with section 19, and, if the pawnbroker neglects or refuses to deliver up the pledge or to make satisfaction for the value so fixed, the justice shall commit him to imprisonment for a period of not more than three months or until he delivers up the pledge or makes satisfaction for the value so fixed. R.S.O. 1970, c. 341, s. 24.

Compensation for depreciation of pledge

26. If a person entitled and offering to redeem a pledge shows to the satisfaction of a justice of the peace that the pledge has become or has been rendered of less value than it was at the time of the pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the justice may award a reasonable satisfaction to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker or shall be paid by the pawnbroker, as the case requires, in such manner as the justice may direct, and in case of default the pawnbroker is liable to the punishment mentioned in section 25. R.S.O. 1970, c. 341, s. 25.

Lost pawntickets

27.—(1) Any person claiming to be entitled to redeem a pledge but not holding the pawnticket may apply to the pawnbroker for a copy of the pawnticket and a printed form of affidavit, which the pawnbroker shall deliver to him upon payment of the charge therefor.

Idem

(2) If the claimant proves to the satisfaction of a justice of the peace his right to redeem the pledge and on or before the third day after the day on which the form of affidavit is delivered to him by the pawnbroker, exclusive of days on which the pawnbroker is prohibited from carrying on business, delivers back to the pawnbroker the affidavit duly sworn and endorsed with a certificate of the justice that such proof has been made, the claimant has, as between him and the pawnbroker, all the rights and remedies that he would have had if he had produced his pawnticket.

Idem

(3) The pawnbroker is not bound to deliver the pledge to any person until the expiration of such three days.

Idem

(4) The pawnbroker shall be indemnified for delivering the pledge, or otherwise acting in conformity with the affidavit and certificate, unless he has notice that the affidavit is fraudulent or false in a material particular. R.S.O. 1970, c. 341, s. 26.

Maximum charges

28. In addition to his profit on the sum lent, being interest thereon at not more than the lawful rate, a pawnbroker is entitled to make the following charges:

1. For a pawnticket, not more than 20 cents.

2. For storage of a pledge, not more than 10 cents per month per cubic foot or part thereof of storage space taken up by the pledge.

3. For a copy of a pawnticket and printed form of affidavit, not more than 20 cents. R.S.O. 1970, c. 341, s. 27.

Offence

29.—(1) Every person or pawnbroker, as the case may be, who without reasonable excuse contravenes or fails to comply with any of the provisions of this Act is guilty of an offence and on conviction is liable to a fine of not more than $500.

Limitation

(2) A proceeding to prosecute an offence against this Act may be commenced within twelve months next after the offence was committed. R.S.O. 1970, c. 341, s. 28, *revised*.

CHAPTER 373

Pension Benefits Act

1.—(1) In this Act, Interpretation

(*a*) "Commission" means the Pension Commission of Ontario;

(*b*) "designated province" means a province or territory of Canada that is designated by regulation as a province or territory in which there is in force legislation substantially similar to this Act;

(*c*) "employee" means an individual who performs service in Ontario or in a designated province for a continuous period of not less than six months under a contract of service or of apprenticeship, and includes an officer or director of a corporation or of an unincorporated organization and an agent acting for his principal on a substantially full-time basis;

(*d*) "employer" means, in relation to an employee, any person or association from whom the employee receives his remuneration, and includes Her Majesty in right of Ontario, an agent of Her Majesty, a municipality as defined in the *Municipal Affairs Act*, and a metropolitan municipality and the local boards thereof; R.S.O. 1980, c. 303

(*e*) "Fund" means the Pension Benefits Guarantee Fund established by section 30;

(*f*) "life annuity" means an annuity that continues for the duration of the life of the annuitant, whether or not it is thereafter continued to some other person, and "deferred life annuity" means a life annuity that commences at retirement age under a pension plan, but in any event not later than age seventy years;

(*g*) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

(*h*) "pension benefit" means the aggregate annual, monthly or other periodic amounts to which an employee will become entitled upon retirement or to which any other person is entitled by virtue of his death after retirement under a pension plan, and "pension benefit credit" means the value at a particular time of the pension benefits and any other benefits provided under the pension plan to which an employee has become entitled;

(*i*) "pension plan" means a superannuation or pension fund or plan organized and administered to provide a pension benefit for employees, and includes,

(i) a unit benefit plan under which pension benefits are determined with reference to remuneration of an employee for each year of service, or for a selected number of years of service,

(ii) a money purchase plan under which pension benefits are determined at the retirement of an employee with reference to the accumulated amount of the aggregate contributions paid by or for the credit of the employee,

(iii) a flat benefit plan under which the pension benefits are expressed either as a fixed amount in respect of each year of employment or as a fixed periodic amount, and

(iv) a deferred profit sharing pension plan other than an employee's profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 of the *Income Tax Act* (Canada);

R.S.C. 1952, c. 148

(*j*) "qualification date" means, in respect of employment in Ontario, the 1st day of January, 1965, and, in respect of employment in a designated province, the date upon which, under the law of such province, a pension plan is required to maintain its qualification for registration;

(*k*) "registered pension plan" means a pension plan that is registered with and certified by the Commission as a plan organized and administered in accordance with this Act;

(*l*) "regulations" means the regulations made under this Act;

(*m*) "service for a continuous period" means service for a period of time without regard to periods of temporary suspension of employment;

(*n*) "Superintendent" means the Superintendent of Pensions;

(*o*) "supplemental pension plan" includes a pension plan established for employees whose membership in another pension plan is a condition precedent to membership in the supplemental pension plan;

(*p*) "voluntary additional contribution" means an additional contribution by an employee to or under a pension plan except a contribution the payment of which, under the terms of the plan, imposes upon the employer an obligation to make a concurrent additional contribution to or under the plan. R.S.O. 1970, c. 342, s. 1 (1); 1973, c. 113, s. 1; 1980, c. 80, s. 1; O. Reg. 171/72.

Province in which person deemed employed

(2) For the purposes of this Act, a person shall be deemed to be employed in the province in which the establishment of his employer to which he reports for work is situated, and, where the employee is not required to report for work at any establishment of his employer, he shall be deemed to be employed in the province in which the establishment of his employer from which his remuneration is paid is situated.

Conflict

(3) In the event of conflict between any provision of this Act and any provision of any other Act, the provision of this Act prevails. R.S.O. 1970, c. 342, s. 1 (2, 3).

Pension Commission continued

2.—(1) The Pension Commission of Ontario is continued and shall be composed of not fewer than five and not more than nine members as the Lieutenant Governor in Council from time to time may determine.

Appointments

(2) The Lieutenant Governor in Council shall appoint the chairman, the vice-chairman and the other members of the Commission, each of whom shall hold office for a term of three years, except that, of those first appointed, one-third, or as nearly as may be, shall be appointed for a term of one year, one-third, or as nearly as may be, for a term of two years, and the remainder for a term of three years.

Reappointment

(3) Every member of the Commission is eligible for reappointment upon the completion of his term of office. R.S.O. 1970, c. 342, s. 2.

Acting chairman

3. In the event of the absence of the chairman and the vice-chairman, such member of the Commission as the members of the Commission designate for the purpose shall act as and have the powers of the chairman. R.S.O. 1970, c. 342, s. 3.

Vacancies

4. The Lieutenant Governor in Council may fill any vacancy that occurs from time to time in the membership of the Commission. R.S.O. 1970, c. 342, s. 4.

Quorum

5. One-half or more of the members of the Commission constitute a quorum, whether or not a vacancy exists in the membership of the Commission. R.S.O. 1970, c. 342, s. 5.

Administrative divisions

6. The Commission may establish such administrative divisions as appear to be appropriate from time to time. R.S.O. 1970, c. 342, s. 6.

Superintendent of Pensions

7.—(1) The Commission shall appoint the Superintendent of Pensions who shall be the chief administrative officer of the Commission.

Inspection

(2) The Superintendent or his duly authorized representative may, at any reasonable time,

(*a*) inspect the books, files, documents and other records respecting a pension plan kept by an employer, an insurer, a trustee of the pension plan or any other person; and

(*b*) require any employer, insurer, trustee of a pension plan or other person to furnish, in a form acceptable to the Commission, such information as the Commission considers necessary for the purpose of ascertaining whether this Act and the regulations have been or are being complied with. R.S.O. 1970, c. 342, s. 7.

Staff

8.—(1) The Commission may appoint such officers, clerks, servants and other members of its staff as it considers appropriate.

Terms of employment

(2) The Commission may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, salary ranges and the terms and conditions of employment of the members of its staff.

R.S.O. 1980, c. 419, applicable

(3) The *Public Service Superannuation Act* applies to the permanent members of the staff of the Commission and to those members of the Commission designated by the Lieutenant Governor in Council.

Security

(4) Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by the *Public Officers Act*. R.S.O. 1970, c. 342, s. 8. R.S.O. 1980, c. 415

Liability of members and employees of Commission

9. No member of the Commission and no employee thereof is personally liable for anything done by it or him in good faith under the authority of this Act or the regulations. R.S.O. 1970, c. 342, s. 9.

Functions and powers of Commission

10.—(1) It is the function of the Commission and it has power,

(*a*) to promote the establishment, extension and improvement of pension plans throughout Ontario;

(*b*) to accept for registration all pension plans required to be registered or filed for registration with the Commission under this Act, and to reject any pension plan that does not qualify for registration;

(*c*) to administer and enforce this Act, and to cancel pension plan certificates of registration issued in respect of any pension plans,

(i) that fail to meet the tests for solvency prescribed by the regulations, or

(ii) in respect of which the employer or the plan administrator has failed to comply with this Act or the regulations, or

(iii) that are not being administered according to a contractual provision required by this Act or the regulations;

(*d*) to conduct surveys and research programs and to obtain statistics for the purposes of the Commission;

(*e*) to assess and collect fees for the registration and annual supervision of pension plans; and

(*f*) to perform such other functions and discharge such other duties as are assigned to it from time to time by the Lieutenant Governor in Council. R.S.O. 1970, c. 342, s. 10 (1); 1973, c. 113, s. 2.

Reciprocal agreements

(2) The Commission may, subject to the approval of the Lieutenant Governor in Council,

(*a*) enter into agreements with the authorized representatives of a designated province or the Government of Canada to provide for the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian association of pension commissions;

(*b*) authorize a Canadian association of pension commissions to carry out such duties on behalf of the Commission as the Commission may require; and

(*c*) delegate to the pension commission or to the government of a designated province such functions and powers under this Act as the Commission may determine. R.S.O. 1970, c. 342, s. 10 (2).

Appropriations

11. The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 342, s. 11; 1973, c. 113, s. 3.

Audit

12. The accounts and financial transactions of the Commission shall be examined annually by the Provincial Auditor. R.S.O. 1970, c. 342, s. 12.

Annual report

13.—(1) The Commission shall make an annual report of the affairs of the Commission to the Minister.

Tabling

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 342, s. 13.

Actions for deducting sums

14. No action lies against any person for withholding, deducting, paying or crediting any sum of money in compliance or intended compliance with this Act. R.S.O. 1970, c. 342, s. 14.

Agreements void

15. Where this Act requires an amount to be deducted, withheld, paid or credited, an agreement by the person on whom that obligation is imposed not to deduct, withhold, pay or credit such amount is void. R.S.O. 1970, c. 342, s. 15.

Pension agency

16. The Lieutenant Governor in Council may establish or designate an agency for the purposes, among others, of receiving, holding and disbursing pension benefit credits under this Act. R.S.O. 1970, c. 342, s. 16.

Registration of pension plans established before Jan. 1, 1965

17.—(1) Every employer of employees in Ontario covered by a pension plan established before the 1st day of January, 1965, shall, unless under the terms of the plan the employer is not required to make contributions to or under the plan,

(*a*) file a copy of such pension plan with the Commission for registration on or before the 1st day of January, 1965, or as soon thereafter as the Commission may require; and

(*b*) while such plan remains in force, maintain its qualification for registration as required by this Act.

Pension plans established on or after Jan. 1, 1965

(2) Every employer who establishes a pension plan for employees in Ontario on or after the 1st day of January, 1965, shall, unless under the terms of the plan the employer is not required to make contributions to or under the plan,

(*a*) file a copy of the pension plan with the Commission for registration within sixty days after the establishment of the plan; and

(*b*) while the plan is in force, maintain its qualification for registration as required by this Act.

Supplemental plan included

(3) Notwithstanding subsections (1) and (2), a pension plan required to be registered shall be deemed to include a supplemental pension plan established by the employer under the terms of which the employer is not required to make contributions.

Annual returns

(4) Every employer of employees in Ontario covered by a pension plan shall file with the Commission annually an information return as prescribed by the regulations in respect of every pension plan administered by or on behalf of the employer or the employees. R.S.O. 1970, c. 342, s. 18.

Acceptance of plans for registration

18. The Commission shall accept for registration and issue its certificate in respect of each pension plan filed for registration under section 17 that in the opinion of the Commission is a pension plan organized and administered in accordance with this Act. R.S.O. 1970, c. 342, s. 19.

Procedure upon refusal to register

19. After a pension plan is filed with the Commission for registration, the Superintendent shall advise the Com-

mission in writing of his opinion as to whether or not the plan is organized and administered in accordance with this Act, and no penalty shall be imposed upon an employer under this Act for failure to register a pension plan until the written opinion of the Superintendent has been received by the Commission and the Commission has notified the employer of its decision concerning registration of the plan by registered mail and sixty days have elapsed thereafter. R.S.O. 1970, c. 342, s. 20.

Vesting and locking-in requirement

20.—(1) A pension plan filed for registration in accordance with section 17 shall contractually provide that,

(*a*) a member of the plan who has been in the service of the employer for a continuous period of ten years, or has been a member of the plan for such period, whichever first occurs, and who has attained the age of forty-five years, is entitled, upon termination of his employment prior to his attaining retirement age, or upon termination of his membership in the plan prior to his attaining retirement age, to a deferred life annuity commencing at his normal retirement age equal to the pension benefits (except pension benefits provided by voluntary additional contributions) provided in respect of service as an employee in Ontario or in a designated province,

(i) under the terms of the plan in respect of service on or after the qualification date,

(ii) by an amendment to the terms of the plan made on or after the qualification date, or

(iii) by the creation of a new pension plan on or after the qualification date;

(*b*) both the pension benefits provided under the terms of the plan and the deferred life annuity prescribed by this section are not capable of assignment or alienation and do not confer upon any employee, personal representative or dependant, or any other person, any right or interest in the pension benefits or the deferred life annuity capable of being assigned or otherwise alienated; and

(*c*) upon termination of his employment or upon termination of his membership in the plan, a member

of the plan who is entitled to a deferred life annuity under clause (*a*) is not entitled to withdraw any part of his contributions to or under the plan, except voluntary additional contributions, in respect of service in Ontario or in a designated province on or after the qualification date, and such contributions shall be applied under the terms of the plan toward the provision of the deferred life annuity required to be provided to the employee under clause (*a*).

No surrender or commutation

(2) Notwithstanding any provision of a pension plan,

(*a*) the deferred life annuity prescribed by subsection (1) is not capable of surrender or commutation during the lifetime of the employee and does not confer upon any employee, personal representative or dependant, or any other person, any right or interest in the deferred annuity capable of being surrendered or commuted during the lifetime of the employee;

(*b*) the pension benefits provided under the terms of the plan in respect of service after the qualification date are not, on or after the date of retirement of an employee, capable of surrender or commutation during his lifetime and do not confer upon any employee, personal representative or dependant, or any other person, any right or interest in such pension benefits capable of being surrendered or commuted during the lifetime of the employee; and

(*c*) an employee shall not withdraw any part of his contributions, not including voluntary additional contributions, paid under the plan in respect of service in Ontario or in a designated province on or after the qualification date, other than after,

(i) the termination of his employment, or

(ii) the termination or winding up of the plan,

prior to his attaining retirement age and in circumstances where he is not entitled to a deferred life annuity under subsection (1). R.S.O. 1970, c. 342, s. 21 (1, 2).

Exception, small annuities

(3) Notwithstanding subsections (1) and (2), a pension plan may provide for,

(*a*) vesting or locking in at an earlier age than forty-five years or upon service or membership in the plan for less than ten years, or for both; and

(*b*) payment to an employee of an amount equal to the commuted value of the deferred life annuity or pension benefit to which the employee is entitled if the amount thereof payable to the employee at normal retirement age is less than $25 a month payable during his lifetime. R.S.O. 1970, c. 342, s. 21 (3); 1980, c. 80, s. 2.

partial commutation

(4) Notwithstanding subsections (1) and (2), where a pension plan so provides, an employee may receive in partial discharge of his rights under the plan as a lump sum, upon or after termination of employment or membership in the plan prior to his attaining normal retirement age as defined by the plan, an amount that in total does not exceed 25 per cent of the commuted value of the deferred life annuity prescribed by subsection (1).

alternative settlements

(5) If a pension plan so provides, a person who is entitled to a deferred life annuity under subsection (1) may, before the commencement of payment of such life annuity, elect to receive,

(*a*) a deferred life annuity the amount of which is reduced or increased by reason of early or deferred retirement, by provision for the payment of an optional annuity to a survivor or to the estate of the employee, or by variation of the terms of payment of such annuity to any person after the employee's death; and

(*b*) a payment or series of payments by reason of a mental or physical disability as prescribed by the regulations,

partly or wholly in lieu of the deferred life annuity described by subsection (1).

integration with government pension

(6) If a pension plan so provides, an employee may, on or before attaining normal retirement age as defined by the plan, elect to receive an annuity the amount of which is varied by reference to benefits payable under the *Old Age Security Act* (Canada) or under any other pension plan administered by the Government of Canada or by the government of a province of Canada.

R.S.C. 1970, c. O-6

winding up of plan

(7) Notwithstanding any provision of a pension plan, upon termination or winding up of the pension plan all contributions made after the qualification date in respect of the deferred life annuity prescribed in subsection (1) to which any person is entitled shall be applied, subject to subsection (9) and to the extent not already applied, towards the provision of the pension benefits prescribed in subsection (1).

Determination of benefits on winding up of plan

(8) For the purpose of determining the pension benefits to which a person may be entitled under subsection (1) at the date of termination or winding up of the pension plan,

(*a*) each employee shall be deemed to have terminated his employment prior to attaining retirement age on the date of the termination or winding up of the plan; and

(*b*) each former employee who retired on pension from the service of the employer shall be deemed to have terminated his employment prior to attaining retirement age but on the date of his retirement.

Reduction of additional benefits

(9) Notwithstanding subsections (1) and (2) and notwithstanding any provision of a pension plan, upon the termination or winding up of a pension plan where,

(*a*) the benefits arising from the deferred life annuities prescribed in subsection (1) include additional pension benefits provided by an amendment to the terms of the plan made after the qualification date or by the creation of a plan after the qualification date, in respect of service prior to such amendment or creation; and

(*b*) the funding of such additional pension benefits, as required by the regulations, has not been completed,

the amount of such additional pension benefits may be reduced in accordance with the regulations.

Contribution and benefit formula

(10) A pension plan filed for registration in accordance with section 17 shall provide for contributions and benefits calculated in accordance with a formula prescribed by the regulations. R.S.O. 1970, c. 342, s. 21 (4-10).

Benefit not to be less than contributions

(11) Notwithstanding any provision of this section and any provision of a pension plan, where,

(*a*) any employee is entitled upon termination of his employment or upon termination of his membership in a pension plan to a deferred or immediate pension benefit; and

(*b*) on the date of termination of his employment or termination of his membership in a pension plan, his pension benefit credit is less than the value of his contributions made to the plan towards such pension benefit,

his pension benefit credit shall be increased to an amount not less than the said value of his contributions. 1973, c. 113, s. 4.

Funding and solvency requirement of plans

21.—(1) A pension plan filed for registration in accordance with section 17 shall contractually provide for,

(*a*) funding, in accordance with the tests for solvency prescribed by the regulations, that is adequate to provide for payment of all pension benefits, deferred life annuities and other benefits required to be paid under the terms of the plan; and

(*b*) investment of pension fund moneys in the securities and loans prescribed by the regulations. R.S.O. 1970, c. 342, s. 22 (1); 1973, c. 113, s. 5.

Winding up of plan

(2) Upon the termination or winding up of a pension plan filed for registration as required by section 17, the employer is liable to pay all amounts that would otherwise have been required to be paid to meet the tests for solvency prescribed by the regulations, up to the date of such termination or winding up, to the insurer, administrator or trustee of the pension plan.

No reduction of present benefits because of C.P.P. 1964-65, c. 51 (Can.)

(3) No amendment of a pension plan consequent upon the coming into force of the *Canada Pension Plan* shall adversely affect the pension benefit credits of any member in respect of remuneration and service or membership in the plan prior to the 1st day of January, 1966. R.S.O. 1970, c. 342, s. 22 (2, 3).

Contents of plans

22. In any pension plan filed for registration in accordance with section 17,

(*a*) the age and service conditions for membership shall not, in the opinion of the Commission,

prevent the gradual accrual of benefits or the spreading of the employer's contributions over an employee's years of service in the class covered by the plan, and

(*b*) provision for computation of the employer's contributions and of the pension benefit and, in the case of a deferred profit-sharing pension plan, the formula governing allocation of contributions and surplus amongst the members of the plan shall not be variable at the discretion of the employer,

unless in the opinion of the Commission the circumstances of the plan warrant otherwise. R.S.O. 1970, c. 342, s. 23.

Employee contribution to pension fund is trust fund in hands of employer

23.—(1) Where a sum is received by an employer from an employee under an arrangement for the payment of the sum by the employer into a pension plan as the employee's contribution thereto, the employer shall be deemed to hold the sum in trust for the employee until the sum is paid into the pension plan whether or not the sum has in fact been kept separate and apart by the employer and the employee has a lien upon the assets of the employer for such amount that in the ordinary course of business would be entered in books of account whether so entered or not.

Idem: payroll deductions

(2) For the purposes of subsection (1), any sum withheld by an employer, whether by payroll deduction or otherwise, from moneys payable to an employee, shall be deemed to be a sum received by the employer from the employee.

Employer's contributions held in trust

(3) Where an employer is required to make contributions to a pension plan, he shall be deemed to hold in trust for the members of the plan an amount calculated in accordance with subsection (4), whether or not,

(*a*) the employer contributions are payable into the plan under the terms of the plan or this Act; or

(*b*) the amount has been kept separate and apart by the employer,

and the members have a lien upon the assets of the employer in such amount that in the ordinary course of business would be entered into the books of account whether so entered or not.

Determining amount of trust funds

(4) For the purpose of determining the amount deemed to be held in trust under subsection (3) on a specific date, the calculation shall be made as if the plan had been wound up on that date. 1980, c. 80, s. 3.

Distribution of information to employees

24.—(1) Every employer shall provide to each employee who is eligible or required to become a member of a registered pension plan, with reference to the benefits available to him under the terms of the plan,

(*a*) a written explanation of the terms and conditions of the plan applicable to him;

(*b*) a written explanation of the rights and duties of the employee; and

(*c*) such other information as may be prescribed by the regulations,

on or before the date such employee is eligible or required to become a member.

Idem

(2) Within six months after a pension plan is established, every employer shall provide the explanation and information referred to in subsection (1) respecting the plan to each member of the plan and to each eligible employee.

Idem

(3) Within six months after a pension plan is amended, the employer shall provide the explanation and information referred to in subsection (1) respecting the plan as amended to each member affected by the amendment and to each eligible employee.

Idem

(4) Every employer shall provide an employee who, upon termination of employment or termination of membership in a pension plan, becomes entitled to an immediate or deferred pension benefit with a written statement showing the benefits to which he is entitled or to which he may become entitled. 1973, c. 113, s. 6, *part*.

Idem

(5) Every employer shall provide to each member of his registered pension plan such information respecting the member's entitlements under the plan as is prescribed by regulations at least once in every three years or within such shorter time period as is prescribed.

Idem

(6) Upon the written request by a member of a registered pension plan, an employer shall make available to the member such documents and statistical, actuarial and financial information respecting the plan as is prescribed by the regulations in the form and within the time period prescribed. 1980, c. 80, s. 4.

Inspection of plan by members

25. A member of a registered pension plan or his agent authorized in writing may inspect and make extracts from the plan at the offices of the Commission at any time during business hours. 1973, c. 113, s. 6, *part*.

Employee option on termination or wind up

26.—(1) Where a pension plan is wound up, in whole or in part, an employee in Ontario whose membership in the plan is terminated and who at the date of termination has been in the service of his employer for a continuous period of ten years or has been a member of the plan for a period of ten years and who has attained the age of forty-five years has the right to elect,

(*a*) where the employee is eligible under the terms of the plan for an immediate pension, to receive an immediate pension benefit in accordance with the benefit formula of the plan and the terms set out in the plan;

(*b*) to receive a pension benefit starting payment at,

(i) his normal retirement age under the plan, or

(ii) where the pension plan provided for early retirement with an unreduced pension benefit, the age prior to his normal retirement age at which the employee would have been eligible to receive his pension benefit without reduction, if the plan and his participation in it had continued,

whichever comes first;

(*c*) where the pension plan provides for early retirement with a reduced pension benefit, to receive a reduced pension benefit starting payment at any age he would have been entitled to such benefit if the plan and his participation in it had continued;

(*d*) to transfer his pension benefit credit to a pension plan of his new employer provided the transfer is accepted by the pension plan of his new employer; or

(*e*) to transfer the amount of his pension benefit credit to a registered retirement savings plan.

Bridging supplements included in computation

(2) Where a pension plan is wound up, in whole or in part, all bridging supplements that are excluded from the requirements of clause 20 (1) (*a*) shall be included for the purpose of calculating the pension benefit of all employees who meet the requirements set out in subsection (1).

Survivor option

(3) Where the employee is entitled to a pension benefit under clause (1) (*a*), (*b*) or (*c*), and the pension plan does not provide an automatic or optional survivor benefit, the employee shall have the right to elect to receive his pension benefit, the amount of which may be reduced or increased by provision for the

payment of an optional annuity to a survivor or to the estate of the employee or by variation of the terms of payment of such annuity to any person after the employee's death.

Where employee does not elect

(4) An employee to whom subsection (1) applies shall make his election within three months after the termination or wind up or within three months after the date of a declaration of wind up under section 28, whichever is later, and if no election is made, the employer shall make the election for the employee.

Application of subss. (1-3)

(5) Subsections (1), (2) and (3) apply notwithstanding any provision to the contrary contained in the pension plan.

Notice period included in caculating pension benefits R.S.O. 1980, c. 137

(6) For the purposes of calculating pension benefits on the wind up of a pension plan, the period of notice required to be given to a terminated employee under Part XII of the *Employment Standards Act* shall be included in computing the employee's length of service with his employer or his time in the plan, as the case may be. 1980, c. 80, s. 5.

Pension benefits not alienable or attachable

27.—(1) Moneys payable under a pension plan shall not be assigned, charged, anticipated or given as security and are exempt from execution, seizure or attachment, and any transaction purporting to assign, charge, anticipate or give as security such moneys is void. R.S.O. 1970, c. 342, s. 24.

Application of subs. (1)

R.S.O. 1980, c. 152

(2) Subsection (1) does not apply to the execution, seizure or attachment of moneys payable under a pension plan in satisfaction of an order for support under the *Family Law Reform Act*. 1978, c. 2, s. 85.

Declaration of Commission that a plan is wound up

28.—(1) The Commission, when it is of the opinion that an employer has discontinued or is in the process of discontinuing a part or all of his business operations in which a substantial number of his employees who are members of a pension plan are employed, may declare the pension plan wound up in whole or in part for the purposes of this Act on such date as the Commission in its discretion considers such business operations are discontinued. R.S.O. 1970, c. 342, s. 25 (1).

Idem

(2) The Commission may declare that a defined benefit pension plan is wound up in whole or in part for the purposes of this Act on such date as the Commission in its discretion considers appropriate, where,

R.S.C. 1970, c. B-3

(*a*) the employer providing the plan is bankrupt within the meaning of the *Bankruptcy Act* (Canada);

(*b*) the plan has been terminated in whole or in part and the employer has failed to meet the funding requirements prescribed;

(*c*) the plan has been terminated in whole or in part and the Commission is of the opinion that because of his insolvency the employer will not be able to meet the funding obligations prescribed by regulation;

(*d*) the Commission has reason to believe that the amount of payments that the Fund may be required to guarantee may be expected to increase unreasonably if the plan is not wound up; or

(*e*) such other event as is prescribed by regulation occurs. 1980, c. 80, s. 6 (1), *part*.

Notification

(3) The Commission shall notify the employer by registered mail that the pension plan is wound up in whole or in part under subsection (1) or (2). R.S.O. 1970, c. 342, s. 25 (2); 1980, c. 80, s. 6 (2).

Notice of objection

(4) Where the employer objects to the declaration made by the Commission under subsection (1) or (2), he may within sixty days from the day of mailing of the notification of the Commission under subsection (3), serve on the Commission a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. R.S.O. 1970, c. 342, s. 25 (3); 1980, c. 80, s. 6 (3).

Commission as administrator

(5) Where a defined benefit pension plan is declared to be wound up in whole or in part by the Commission, the Commission, where it has reason to believe that the assets of the plan are not sufficient to provide full payment of the contributions and pension benefits set out in section 31, may take control of the assets of the pension plan and act as administrator of the plan for the purpose of the wind up. 1980, c. 80, s. 6 (1), *part*.

Continuation of benefits under successor employer

29.—(1) Where an employer who is bound by or is a party to a pension plan sells, assigns or otherwise disposes of all or part of his business or undertaking or all or part of the assets of his business or undertaking, and,

(*a*) in conjunction therewith, an employee of the employer becomes an employee of the person acquiring such business, undertaking or assets, in this section called the successor employer; and

(*b*) the successor employer does not assume responsibility for the accrued pension benefits of the employer's pension plan,

the employee referred to in clause (*a*) continues to be entitled to the benefits provided under the terms of the plan in respect of his service in Ontario or a designated province without further accrual.

Re-employment deemed not a termination

(2) Where a transaction described in subsection (1) has taken place, irrespective of whether the successor employer has or has not assumed responsibility for the accrued pension benefits of the employer's pension plan, for the purposes of the employer's plan, the employment or membership in the employer's plan of an employee referred to in clause (1) (*a*) shall be deemed not to have been terminated by reason of the transaction.

Service deemed continuous

(3) Where a transaction described in subsection (1) has taken place, irrespective of whether the successor employer has or has not assumed responsibility for the accrued pension benefits of the employer's pension plan, for the purpose of,

(*a*) determining whether an employee is entitled to a deferred life annuity under a pension plan of the employer or successor employer; or

(*b*) determining completed service with respect to any eligibility condition of a successor employer's pension plan,

the service of the employee shall be deemed to include his service with both the employer and the successor employer without any break in service notwithstanding the change of employers referred to in clause (1) (*a*). 1973, c. 113, s. 7.

Fund established

30.—(1) There is established a fund to be known as the Pension Benefits Guarantee Fund which shall be administered by the Commission.

Purpose

(2) The purpose of the Fund is to guarantee payment of the pension benefits set out in subsection 31 (1) where a defined benefit pension plan is wound up under subsection 28 (2) subject to such limits and qualifications as are set out in the regulations.

Advances or loans to Fund

(3) If, at any time, the amount standing to the credit of the Fund is insufficient for the purpose of making payments for claims under this Act, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make loans out of the Consolidated Revenue Fund to the Fund on such terms and conditions as the Lieutenant Governor in Council directs. 1980, c. 80, s. 7, *part*.

Benefits guaranteed

31.—(1) The pension benefits of a defined benefit pension plan that is wound up under subsection 28 (2) that are guaranteed by the Fund are,

(*a*) all pension benefits that must be contractually provided under clause 20 (1) (*a*) provided in respect of service in Ontario of an employee who, at the date of wind up of the plan, has been in the service of his employer for a continuous period of ten years or has been a member of the plan for a period of ten years and who has attained the age of forty-five years;

(*b*) all pension benefits in the course of payment to a retired member of the plan or his survivor or estate or to any person designated by the employee provided in respect of his service in Ontario and any such pension benefits the employee's survivor or estate or any person designated by him may become entitled to;

(*c*) all pension benefits that must be contractually provided under clause 20 (1) (*a*) provided in respect of service in Ontario of a former member of the plan who, at the date of termination of his employment, had been in the service of his employer for a continuous period of ten years or was a member of the plan for a period of ten years and who had attained the age of forty-five years; and

(*d*) the value of all employee contributions made to the plan in respect of service in Ontario to the extent that such value exceeds the value of pension benefits provided to an employee under clause (*a*), (*b*) or (*c*).

Inclusion of bridging supplements and elections

(2) For the purpose of subsection (1), "pension benefits" includes bridging supplements, whether or not the bridging supplements have been excluded from the requirements of clause 20 (1) (*a*) and any pension benefit that the employee has elected to receive under section 26.

Payments not guaranteed

(3) The payment of,

(*a*) a pension benefit provided by a plan that has been in effect for less than three years at the date of termination or wind up; or

(*b*) any increase to a pension benefit that became effective within three years before the date of termination or wind up,

is not guaranteed by the Fund. 1980, c. 80, s. 7, *part*.

Where a defined benefit pension plan discontinued

32. In addition to any amounts the employer is liable to pay under subsection 21 (2), where a defined benefit pension plan is terminated or wound up or the plan is amended so that it is no longer a defined benefit pension plan, the employer is liable to the plan for the difference between,

(*a*) the value of the assets of the plan; and

(*b*) the value of pension benefits guaranteed under subsection 31 (1) and any other pension benefit vested under the terms of the plan,

and the employer shall make payments to the insurer, trustee or administrator of the pension plan to fund the amount owing in such manner as is prescribed by regulation. 1980, c. 80, s. 7, *part*.

Lien on assets

33. Where the Commission pays into a pension plan because the assets of the plan are not sufficient to finance the pension benefits guaranteed under subsection 31 (1), the Commission has a lien and charge on the assets of the employer for the amount of the payment and interest thereon and the Commission may enter into an agreement with the employer providing for repayment of the amount advanced together with interest thereon upon such terms and conditions as the Commission considers appropriate. 1980, c. 80, s. 7, *part*.

Amendments reducing benefits prohibited

34. No amendment to a pension plan shall reduce the pension benefit credits accrued to the date of the amendment. 1980, c. 80, s. 7, *part*.

Notice of objection

35.—(1) Where the Commission refuses to accept for registration a pension plan filed for registration under this Act, or cancels a certificate of registration, the employer may, within sixty days of the day of mailing of a notification of refusal or cancellation of registration, serve on the Commission a notice of objection in duplicate in the prescribed form, setting out the reasons for the objection and all relevant facts.

Service

(2) A notice of objection under section 28 or this section shall be served by being sent by registered mail addressed to the Commission at Toronto.

Review by Commission

(3) Upon receipt of a notice of objection, the Commission shall with all due despatch reconsider its opinion, and vary or confirm its opinion, and it shall thereupon notify the employer of its actions by registered mail. R.S.O. 1970, c. 342, s. 26.

Appeal to Divisional Court

36.—(1) Where an employer has served a notice of objection under section 28 or 35, he may appeal to the Divisional Court,

(*a*) within ninety days after the Commission has confirmed its opinion; or

(*b*) after ninety days and before 180 days have elapsed after service of the notice of objection and the Commission has not notified the employer that it has confirmed or varied its opinion.

Filing of notice of appeal

(2) An appeal to the court shall be instituted by filing with the Registrar of the Supreme Court or by sending by registered mail addressed to him at Toronto three copies of a notice of appeal in such form as is determined by the rules of court.

Transmission to Superintendent

(3) Upon receipt of the copies of the notice of appeal, the Registrar shall transmit two copies to the Superintendent.

Transmission of material

(4) Immediately after receiving a copy of the notice of appeal, the Superintendent shall forward to the Registrar copies of all documents relevant to the appeal.

Hearings *in camera*

(5) An appeal may, in the discretion of the court, be heard *in camera* or in public, unless the appellant requests that it be heard *in camera*, in which case it shall be so heard.

Disposition of appeals

(6) The court may dispose of an appeal by dismissing it, by referring the matters in issue back to the Commission for reconsideration, or by allowing the appeal.

Executing decision of court

(7) Where the court allows an appeal under this section, the Commission shall accept the pension plan for registration or reinstatement in accordance with the direction of the court, which may include conditions precedent to qualification for registration or reinstatement of the plan imposed upon the appellant. R.S.O. 1970, c. 342, s. 27.

Non-application of R.S.O. 1980, c. 484

37. The *Statutory Powers Procedure Act* does not apply to determinations of the Commission under this Act or the regulations. 1980, c. 80, s. 8.

Regulations

38.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) respecting methods of computing pension benefit credits and pension benefits and the commuted value of a deferred life annuity;

(*b*) governing defined benefit pension plans and governing the maintenance and administration of the Fund by the Commission including, without limiting the generality of the foregoing, regulations,

(i) governing the procedures to be followed by employers in reporting to the Commission and prescribing information to be provided in reports,

(ii) governing the procedures to be followed in making and determining claims from the Fund,

(iii) prescribing the maximum pension benefits guaranteed by the Fund or prescribing a method of calculating the maximum pension benefits,

(iv) prescribing the method of calculating the total limit of the Fund's liability,

(v) prescribing classes of pension plans and exempting any class of plan or any pension plan from any provision of this Act or the regulations,

(vi) prescribing the interest payable on loans from the Fund to a pension plan,

(vii) prescribing information to be submitted on the wind up of a pension plan, the person who shall submit the information and the time within which the information is to be submitted,

(viii) specifying the priorities in allocating assets of a defined benefit pension plan on its wind up,

(ix) authorizing the Commission to appoint a trustee with investment powers in respect of money in the Fund,

(x) governing the procedures to be followed by the administrator of a pension plan in the distribution of assets of the plan on winding up,

(xi) requiring premiums to be paid into the Fund by employers and prescribing the amount of the premiums or the method of calculating the premiums, classifying pension plans and providing for different premiums in respect of different classes of plans,

(xii) governing assignments or transfers of defined benefit pension plans from one employer to another and setting out the obligations and liabilities of the transferring employer,

(xiii) governing the termination or wind up of a defined benefit pension plan,

(xiv) prescribing funding requirements into a plan for the purposes of section 32 and authorizing the Commission to vary the requirements where financial hardship would result to the employer,

(xv) prescribing events upon the occurrence of which the Commission may declare a plan wound up under clause 28 (2) (*e*);

(*c*) respecting the variation of pension benefits and deferred life annuities by reference to pensions payable under the *Old Age Security Act* (Canada) or under any other pension plan administered by the Government of Canada or by the government of a province of Canada; R.S.C. 1970, c. O-6

(*d*) prescribing the classes of investments and loans, both qualitative and quantitative, in which pension fund moneys heretofore or hereafter accumulated may be invested, and governing the making of such investments and loans;

(*e*) prescribing tests and standards for solvency of pension plans;

(*f*) prescribing the conditions under which, upon termination of employment of an employee, upon termination of an employee's membership in a pension plan or upon the termination or winding up of a pension plan, pension benefit credits may be held in trust by the administrator, insurer or trustee of the pension plan, or transferred to the administrator, insurer or trustee of another pension plan or to a registered retirement savings plan or to the agency described in section 16;

(*g*) designating employees or pension plans, or any class thereof, that are excepted from the application of this Act and the regulations;

(*h*) designating any province or territory of Canada as a province or territory, as the case may be, in which there is in force legislation substantially similar to this Act;

(*i*) specifying service that shall be deemed not to be service in a designated province;

(*j*) prescribing mental or physical disability for the purpose of clause 20 (5) (*b*);

(*k*) providing for, regulating and governing the disposition of the assets of a pension plan that is discontinued, terminated or wound up;

(*l*) requiring the furnishing of information to the Commission in respect of pension plans;

(*m*) requiring the furnishing of documents and information by employers to members of pension plans and prescribing time limits within which such documents and information are to be furnished;

(*n*) prescribing forms and providing for their use;

(*o*) prescribing fees for registration and the annual supervision of pension plans;

(*p*) prescribing approved contribution and benefit formulae in respect of pension plans required to be registered under this Act;

(*q*) defining "defined benefit pension plan" and "bridging supplement" for the purposes of this Act and the regulations;

(*r*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 342, s. 28; 1980, c. 80, s. 9 (1).

Retroactive regulations

(2) A regulation made under this Act may be made retroactive in its application. 1980, c. 80, s. 9 (2).

Penalties

39.—(1) Every person who contravenes any of the provisions of this Act or the regulations or who obstructs an officer or agent of the Commission in the performance of his duties is guilty of an offence and on conviction is liable to a fine of not less than $200 and not more than $10,000.

Idem

(2) Every employer who is convicted of an offence under subsection (1) shall pay to the insurer, trustee or administrator of the pension plan in respect of which the offence was committed all amounts that the employer has wrongfully failed to pay as required by this Act and the regulations.

Idem

(3) Where a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation

who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1970, c. 342, s. 29 (1-3).

Time limit for commencing proceedings

(4) No proceeding under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1980, c. 80, s. 10.

CHAPTER 374

Perpetuities Act

Interpretation

1. In this Act,

(*a*) "court" means the Supreme Court;

(*b*) "in being" means living or *en ventre sa mere*;

(*c*) "limitation" includes any provision whereby property or any interest in property, or any right, power or authority over property, is disposed of, created or conferred. R.S.O. 1970, c. 343, s. 1.

Rule against perpetuities to continue; saving

2. Except as provided by this Act, the rule of law known as the rule against perpetuities continues to have full effect. R.S.O. 1970, c. 343, s. 2.

Possibility of vesting beyond period

3. No limitation creating a contingent interest in real or personal property shall be treated as or declared to be invalid as violating the rule against perpetuities by reason only of the fact that there is a possibility of such interest vesting beyond the perpetuity period. R.S.O. 1970, c. 343, s. 3.

Presumption of validity and "Wait and See"

4.—(1) Every contingent interest in real or personal property that is capable of vesting within or beyond the perpetuity period is presumptively valid until actual events establish,

(*a*) that the interest is incapable of vesting within the perpetuity period, in which case the interest, unless validated by the application of section 8 or 9, shall be treated as void or declared to be void; or

(*b*) that the interest is incapable of vesting beyond the perpetuity period, in which case the interest shall be treated as valid or declared to be valid.

General power of appointment

(2) A limitation conferring a general power of appointment, which but for this section would have been void on the ground that it might become exercisable beyond the perpetuity period, is presumptively valid until such time, if any, as it becomes established by actual events that the power cannot be exercised within the perpetuity period.

Special power of appointment, etc.

(3) A limitation conferring any power, option or other right, other than a general power of appointment, which but for this section would have been void on the ground that it might be exercised beyond the perpetuity period, is presumptively valid, and shall be declared or treated as void for remoteness only if, and so far as, the right is not fully exercised within the perpetuity period. R.S.O. 1970, c. 343, s. 4.

Applications to determine validity

5.—(1) An executor or a trustee of any property or any person interested under, or on the validity or invalidity of, an interest in such property may at any time apply to the court for a declaration as to the validity or invalidity with respect to the rule against perpetuities of an interest in that property, and the court may on such application make an order as to validity or invalidity of an interest based on the facts existing and the events that have occurred at the time of the application and having regard to sections 8 and 9.

Interim income

(2) Pending the treatment or declaration of a presumptively valid interest within the meaning of subsection 4 (1) as valid or invalid, the income arising from such interest and not otherwise disposed of shall be treated as income arising from a valid contingent interest, and any uncertainty whether the limitation will ultimately prove to be void for remoteness shall be disregarded. R.S.O. 1970, c. 343, s. 5.

Measurement of perpetuity period

6.—(1) Except as provided in section 9, subsection 13 (3) and subsections 15 (2) and (3), the perpetuity period shall be measured in the same way as if this Act had not been passed, but, in measuring that period by including a life in being when the interest was created, no life shall be included other than that of any person whose life, at the time the interest was created, limits or is a relevant factor that limits in some way the period within which the conditions for vesting of the interest may occur.

Idem

(2) A life that is a relevant factor in limiting the time for vesting of any part of a gift to a class shall be a relevant life in relation to the entire class.

Idem

(3) Where there is no life satisfying the conditions of subsection (1), the perpetuity period is twenty-one years. R.S.O. 1970, c. 343, s. 6.

Presumptions and evidence as to future parenthood

7.—(1) Where, in any proceeding respecting the rule against perpetuities, a question arises that turns on the ability of a person to have a child at some future time, then,

(*a*) it shall be presumed,

(i) that a male is able to have a child at the age of fourteen years or over, but not under that age, and

(ii) that a female is able to have a child at the age of twelve years or over, but not under that age or over the age of fifty-five years; but,

(*b*) in the case of a living person, evidence may be given to show that he or she will or will not be able to have a child at the time in question.

Idem (2) Subject to subsection (3), where any question is decided in relation to a limitation of interest by treating a person as able or unable to have a child at a particular time, then he or she shall be so treated for the purpose of any question that arises concerning the rule against perpetuities in relation to the same limitation or interest notwithstanding that the evidence on which the finding of ability or inability to have a child at a particular time is proved by subsequent events to have been erroneous.

Idem (3) Where a question is decided by treating a person as unable to have a child at a particular time and such person subsequently has a child or children at that time, the court may make such order as it sees fit to protect the right that such child or children would have had in the property concerned as if such question had not been decided and as if such child or children would, apart from such decision, have been entitled to a right in the property not in itself invalid by the application of the rule against perpetuities as modified by this Act. R.S.O. 1970, c. 343, s. 7 (1-3).

Idem (4) The possibility that a person may at any time have a child by adoption or by means other than by procreating or giving birth to a child shall not be considered in deciding any question that turns on the ability of a person to have a child at some particular time, but, if a person does subsequently have a child or children by such means, then subsection (3) applies to such child or children. R.S.O. 1970, c. 343, s. 7 (4); 1977, c. 41, s. 20.

Reduction of age **8.**—(1) Where a limitation creates an interest in real or personal property by reference to the attainment by any person or persons of a specified age exceeding twenty-one years, and actual events existing at the time the interest was created or at any subsequent time establish,

(*a*) that the interest, would, but for this section, be void as incapable of vesting within the perpetuity period; but

(*b*) that it would not be void if the specified age had been twenty-one years,

the limitation shall be read as if, instead of referring to the age specified, it had referred to the age nearest the age specified that would, if specified instead, have prevented the interest from being so void.

Exclusion of class members to avoid remoteness

(2) Where the inclusion of any persons, being potential members of a class or unborn persons who at birth would become members or potential members of the class, prevents subsection (1) from operating to save a limitation creating an interest in favour of a class of persons from being void for remoteness, such persons shall be excluded from the class for all purposes of the limitation, and the limitation takes effect accordingly.

Idem

(3) Where a limitation creates an interest in favour of a class to which subsection (2) does not apply and actual events at the time of the creation of the interest or at any subsequent time establish that, but for this subsection, the inclusion of any persons, being potential members of a class or unborn persons who at birth would become members or potential members of the class, would cause the limitation to the class to be void for remoteness, such persons shall be excluded from the class for all purposes of the limitation, and the limitation takes effect accordingly.

Interpretation

(4) For the purposes of this section, a person shall be treated as a member of a class if in his case all the conditions identifying a member of the class are satisfied, and a person shall be treated as a potential member if in his case some only of those conditions are satisfied but there is a possibility that the remainder will in time be satisfied. R.S.O. 1970, c. 343, s. 8.

Spouses

9.—(1) Where any disposition is made in favour of any spouse of a person in being at the commencement of the perpetuity period, or where a limitation creates an interest in real or personal property by reference to the time of the death of the survivor of a person in being at the commencement of the perpetuity period and any spouse of that person, for the purpose of validating any such disposition or limitation, that but for this section would be void as offending the rule against perpetuities as modified by this Act, the spouse of such person shall be deemed to be a life in being at the commencement of the perpetuity period even though such spouse was not born until after that time. R.S.O. 1970, c. 343, s. 9.

"spouse" defined

(2) For the purposes of subsection (1), "spouse" includes either of a man and a woman who, not being married to

each other, had been cohabiting immediately before the death of one of them,

(*a*) continuously for a period of not less than five years; or

(*b*) in a relationship of some permanence where there is a child born of whom they are the natural parents. 1977, c. 40, s. 90 (1).

Saving

10.—(1) A limitation that, if it stood alone, would be valid under the rule against perpetuities is not invalidated by reason only that it is preceded by one or more limitations that are invalid under the rule against perpetuities, whether or not such limitation expressly or by implication takes effect after, or is subject to, or is ulterior to and dependent upon, any such invalid limitation.

Acceleration of expectant interests

(2) Where a limitation is invalid under the rule against perpetuities, any subsequent interest that, if it stood alone, would be valid shall not be prevented from being accelerated by reason only of the invalidity of the prior interest. R.S.O. 1970, c. 343, s. 10.

Powers of appointment

11.—(1) For the purpose of the rule against perpetuities, a power of appointment shall be treated as a special power unless,

(*a*) in the instrument creating the power it is expressed to be exercisable by one person only; and

(*b*) it could, at all times during its currency when that person is of full age and capacity, be exercised by him so as immediately to transfer to himself the whole of the interest governed by the power without the consent of any other person or compliance with any other condition, not being a formal condition relating only to the mode of exercise of the power.

Idem

(2) A power that satisfies the conditions of clauses (1) (*a*) and (*b*) shall, for the purpose of the rule against perpetuities, be treated as a general power.

Idem

(3) For the purpose of determining whether an appointment made under a power of appointment exercisable by will only is void for remoteness, the power shall be treated as a general power where it would have been so treated if exercisable by deed. R.S.O. 1970, c. 343, s. 11.

Administrative powers of trustees

12.—(1) The rule against perpetuities does not invalidate a power conferred on trustees or other persons to sell, lease, exchange or otherwise dispose of any property, or to do any other act in the administration (as opposed to the distribution) of any property including, where authorized, payment to trustees or other persons of reasonable remuneration for their services.

Application of subs. (1)

(2) Subsection (1) applies for the purpose of enabling a power to be exercised at any time after this Act comes into force, notwithstanding that the power is conferred by an instrument that took effect before that time. R.S.O. 1970, c. 343, s. 12.

Options to acquire reversionary interests

13.—(1) The rule against perpetuities does not apply to an option to acquire for valuable consideration an interest reversionary on the term of a lease,

(*a*) if the option is exercisable only by the lessee or his successors in title; and

(*b*) if it ceases to be exercisable at or before the expiration of one year following the determination of the lease.

Application of subs. (1)

(2) Subsection (1) applies to an agreement for a lease as it applies to a lease, and "lessee" shall be construed accordingly.

Other options

(3) In the case of all other options to acquire for valuable consideration any interest in land, the perpetuity period under the rule against perpetuities is twenty-one years, and any such option that according to its terms is exercisable at a date more than twenty-one years from the date of its creation is void on the expiry of twenty-one years from the date of its creation as between the person by whom it was made and the person to whom or in whose favour it was made and all persons claiming through either or both of them, and no remedy lies for giving effect to it or making restitution for its lack of effect.

Options to renew leases

(4) The rule against perpetuities does not apply, nor do the provisions of subsection (3) apply, to options to renew a lease. R.S.O. 1970, c. 343, s. 13.

Easements, *profits a prendre*, etc.

14. In the case of an easement, *profit à prendre* or other similar interest to which the rule against perpetuities may be applicable, the perpetuity period is forty years from the time of the creation of such easement, *profit à prendre* or other similar interest, and the validity or invalidity of such easement, *profit à prendre* or other similar interest, so far as remoteness is concerned, shall be determined by actual events

within such forty-year period, and the easement, *profit à prendre* or other similar interest is void only for remoteness if, and to the extent that, it fails to acquire the characteristics of a present exercisable right in the servient land within the forty-year period. R.S.O. 1970, c. 343, s. 14.

Determinable interests

15.—(1) In the case of,

(*a*) a possibility of reverter on the determination of a determinable fee simple; or

(*b*) a possibility of a resulting trust on the determination of any determinable interest in real or personal property,

the rule against perpetuities as modified by this Act applies in relation to the provision causing the interest to be determinable as it would apply if that provision were expressed in the form of a condition subsequent giving rise on its breach to a right of re-entry or an equivalent right in the case of personal property, and, where the event that determines the determinable interest does not occur within the perpetuity period, the provision shall be treated as void for remoteness and the determinable interest becomes an absolute interest.

Idem

(2) In the case of a possibility of reverter on the determination of a determinable fee simple, or in the case of a possibility of a resulting trust on the determination of any determinable interest in any real or personal property, or in the case of a right of re-entry following on a condition subsequent, or in the case of an equivalent right in personal property, the perpetuity period shall be measured as if the event determining the prior interest were a condition to the vesting of the subsequent interest, and failing any life in being at the time the interests were created that limits or is a relevant factor that limits in some way the period within which that event may take place, the perpetuity period is twenty-one years from the time when the interests were created.

Idem

(3) Even though some life or lives in being may be relevant in determining the perpetuity period under subsection (2), the perpetuity period for the purposes of this section shall not exceed a period of forty years from the time when the interests were created and shall be the lesser of a period of forty years and a period composed of the relevant life or lives in being and twenty-one years. R.S.O. 1970, c. 343, s. 15.

Specific non-charitable trusts

16.—(1) A trust for a specific non-charitable purpose that creates no enforceable equitable interest in a specific person shall be construed as a power to appoint the income or the

capital, as the case may be, and, unless the trust is created for an illegal purpose or a purpose contrary to public policy, the trust is valid so long as and to the extent that it is exercised either by the original trustee or his successor, within a period of twenty-one years, notwithstanding that the limitation creating the trust manifested an intention, either expressly or by implication, that the trust should or might continue for a period in excess of that period, but, in the case of such a trust that is expressed to be of perpetual duration, the court may declare the limitation to be void if the court is of opinion that by so doing the result would more closely approximate the intention of the creator of the trust than the period of validity provided by this section.

Idem

(2) To the extent that the income or capital of a trust for a specific non-charitable purpose is not fully expended within a period of twenty-one years, or within any annual or other recurring period within which the limitation creating the trust provided for the expenditure of all or a specified portion of the income or the capital, the person or persons, or his or their successors, who would have been entitled to the property comprised in the trust if the trust had been invalid from the time of its creation, are entitled to such unexpended income or capital. R.S.O. 1970, c. 343, s. 16.

Rule in *Whitby vs. Mitchell* abolished

17.—(1) The rule of law prohibiting the limitation, after a life interest to an unborn person, of an interest in land to any unborn issue of an unborn person is abolished, but without affecting any other rule relating to perpetuities. R.S.O. 1970, c. 343, s. 17; 1977, c. 40, s. 90 (2).

"issue" defined

(2) For the purposes of subsection (1), "issue" means issue of a person, whether born within or outside marriage, subject to sections 86 and 87 of the *Child Welfare Act*. 1977, c. 40, s. 90 (3).

R.S.O. 1980, c. 66

Rules as to perpetuities not applicable to employee-benefit trusts

18. The rules of law and statutory enactments relating to perpetuities do not apply and shall be deemed never to have applied to the trusts of a plan, trust or fund established for the purpose of providing pensions, retirement allowances, annuities, or sickness, death or other benefits, to employees or to their widows, dependants or other beneficiaries. R.S.O. 1970, c. 343, s. 18.

Application of Act

19. Except as provided in subsection 12 (2) and in section 18, this Act applies only to instruments that take effect on or after the 6th day of September, 1966, and such instruments include an instrument made in the exercise of a general or special power of appointment on or after that date even though the instrument creating the power took effect before that date. R.S.O. 1970, c. 343, s. 19.

CHAPTER 375

Personal Property Security Act

Interpretation

1. In this Act,

(*a*) "accessions" means goods that are installed in or affixed to other goods;

(*b*) "account debtor" means a person who is obligated on chattel paper or on an intangible;

(*c*) "chattel paper" means one or more than one writing that expresses both a monetary obligation and a security interest in specific goods;

(*d*) "collateral" means property that is subject to a security interest;

(*e*) "consumer goods" means goods that are used or acquired for use primarily for personal, family or household purposes;

(*f*) "creditor" includes an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver, and an executor, administrator or committee;

(*g*) "debtor" means a person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes an assignor of book debts and an assignee of the debtor's interest in the collateral referred to in subsection 49 (1), or such one or more of them as the context requires;

(*h*) "default" means the failure to pay or otherwise perform the obligation secured when due or the occurrence of any event whereupon under the terms of the security agreement the security becomes enforceable;

(*i*) "document of title" means any writing that purports to be issued by or addressed to a bailee and purports to cover such goods in the bailee's possession as are identified or fungible portions of an identified mass, and that in the ordinary course of business is

treated as establishing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers;

(*j*) "equipment" means goods that are not inventory or consumer goods;

(*k*) "goods" means all chattels personal, other than choses in action and money, and includes emblements and industrial growing crops, and oil, gas and other minerals to be extracted, and timber to be cut, and goods are either consumer goods, equipment or inventory;

(*l*) "instrument" means a bill, note or cheque within the meaning of the *Bills of Exchange Act* (Canada), or any other writing that evidences a right to the payment of money and is of a type that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment, but does not include a writing that constitutes part of chattel paper, a document of title or securities;

R.S.C. 1970, c. B-5

(*m*) "intangible" means all personal property, including choses in action, that is not goods, chattel paper, documents of title, instruments or securities;

(*n*) "inventory" means goods that are held by a person for sale or lease, or that are to be furnished or have been furnished under a contract of service, or that are raw materials, work in process or materials used or consumed in a business or profession;

(*o*) "judge" means a judge of a county or district court;

(*p*) "notify" means to take such steps as are reasonably required to give information to the person to be notified so that,

(i) it comes to his attention, or

(ii) it is directed to such person at his customary address or at his place of residence, or at such other place as is designated by him over his signature,

and "notification" has a corresponding meaning;

(*q*) "prescribed" means prescribed by the regulations;

(*r*) "proceeds" means personal property in any form or fixtures derived directly or indirectly from any dealing with collateral or proceeds or that indemnifies or compensates for collateral destroyed or damaged;

(*s*) "purchase-money security interest" means a security interest that is,

(i) taken or reserved by the seller of the collateral to secure payment of all or part of its price, or

(ii) taken by a person who gives value that enables the debtor to acquire rights in or the use of the collateral, if such value is applied to acquire such rights;

(*t*) "registrar" means the registrar of personal property security;

(*u*) "regulations" means the regulations made under this Act;

(*v*) "secured party" means a person who has a security interest;

(*w*) "securities" means shares, stock, warrants, bonds, debentures, debenture stock or the like issued by a corporation or other person, or a partnership, association or government;

(*x*) "security agreement" means an agreement that creates or provides for a security interest;

(*y*) "security interest" means an interest in goods, other than building materials that have been affixed to the realty, fixtures, documents of title, instruments, securities, chattel papers or intangibles that secures payment or performance of an obligation, and includes an interest arising from an assignment of book debts;

(*z*) "value" means any consideration sufficient to support a simple contract. R.S.O. 1970, c. 344, s. 1.

PART I

GENERAL

Application of Act

2. Subject to subsection 3 (1), this Act applies,

(*a*) to every transaction without regard to its form and without regard to the person who has title to the collateral that in substance creates a security interest, including, without limiting the foregoing,

(i) a chattel mortgage, conditional sale, equipment trust, floating charge, pledge, trust deed or trust receipt, and

(ii) an assignment, lease or consignment intended as security; and

(*b*) to every assignment of book debts not intended as security, but not to an assignment for the general benefit of creditors to which the *Assignments and Preferences Act* applies. R.S.O. 1970, c. 344, s. 2.

R.S.O. 1980, c. 33

Where Act does not apply

3.—(1) This Act does not apply,

(*a*) to a lien given by statute or rule of law, except as provided in section 32, clause 36 (3) (*b*) and clause 37 (2) (*b*);

(*b*) to a transfer of an interest or claim in or under any policy of insurance or contract of annuity;

(*c*) to a mortgage, charge or assignment whose registration is provided for in the *Corporations Securities Registration Act*; or

R.S.O. 1980, c. 94

(*d*) to a transaction under the *Pawnbrokers Act*.

R.S.O. 1980, c. 372

Rights under R.S.O. 1980, c. 462 not affected

(2) The rights of buyers and sellers under subsection 20 (2) and sections 39, 40, 41 and 43 of the *Sale of Goods Act* are not affected by this Act. R.S.O. 1970, c. 344, s. 3.

Errors, omissions, etc.

4. A document to which this Act applies is not invalidated nor shall its effect be destroyed by reason only of a defect, irregularity, omission or error therein or in the execution thereof unless, in the opinion of the judge or court, the defect, irregularity, omission or error is shown to have actually misled some person whose interests are affected by the document. R.S.O. 1970, c. 344, s. 4.

Conflict of laws

5.—(1) Where the chief place of business of a debtor is in Ontario, the validity and perfection of a security interest and the possibility and effect of proper registration with regard to intangibles or with regard to goods of a type that are normally used in more than one jurisdiction, if such

goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others, are governed by this Act.

Idem (2) Where the chief place of business of a debtor is not in Ontario, the validity and perfection of a security interest and the possibility and effect of proper registration with regard to intangibles or with regard to goods of a type that are normally used in more than one jurisdiction, if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others, are governed by the law, including the conflict of laws rules, of the jurisdiction in which the chief place of business is located.

Idem (3) If a jurisdiction does not provide, by registration or recording in such jurisdiction, for perfection of a security interest of the kind referred to in subsections (1) and (2), the security interest may be perfected by registration in Ontario. R.S.O. 1970, c. 344, s. 5.

Conflict of laws, continued **6.**—(1) Where personal property, other than that governed by subsection 5 (1) or (2), was already subject to a security interest when it was brought into Ontario, the validity of the security interest in Ontario is to be determined by the law, including the conflict of laws rules, of the jurisdiction where the property was when the security interest attached. R.S.O. 1970, c. 344, s. 6 (1).

Right of revendication (2) Where goods brought into Ontario are subject to the seller's right to revendicate or to resume possession of the goods, unless the seller registers a financing statement in the prescribed form within twenty days after the day on which the goods were brought into Ontario, such right is unenforceable in Ontario thereafter. R.S.O. 1970, c. 344, s. 6 (2); 1973, c. 102, s. 1.

Conflict of laws, continued **7.**—(1) Subject to section 5, a security interest in collateral already perfected under the law of the jurisdiction in which the collateral was when the security interest attached and before being brought into Ontario continues perfected in Ontario for sixty days and also thereafter if within the sixty-day period it is perfected in Ontario. R.S.O. 1970, c. 344, s. 7 (1).

Idem (2) Notwithstanding subsection (1), where the secured party receives notice within the sixty-day period mentioned therein that the collateral has been brought into Ontario, his security interest in the collateral ceases to be perfected in Ontario unless he registers a financing statement in the pre-

scribed form within fifteen days from the date that he receives such notice or upon the expiration of the sixty-day period, whichever is earlier. R.S.O. 1970, c. 344, s. 7 (2).; 1973, c. 102, s. 2.

Idem

(3) A security interest that has ceased to be perfected in Ontario due to the expiration of the sixty-day period may thereafter be perfected in Ontario, but such perfection takes effect from the time of its perfection in Ontario. R.S.O. 1970, c. 344, s. 7 (3).

Conflict of laws, concluded

8. Where a security interest was not perfected under the law of the jurisdiction in which the collateral was when the security interest attached and before being brought into Ontario, it may be perfected in Ontario within thirty days from the date the collateral is brought into Ontario, in which case perfection dates from the time of perfection in Ontario. R.S.O. 1970, c. 344, s. 8.

PART II

VALIDITY OF SECURITY AGREEMENTS AND RIGHTS OF PARTIES

Effectiveness of security agreement

9. Except as otherwise provided by this or any other Act, a security agreement is effective according to its terms between the parties to it and against third parties. R.S.O. 1970, c. 344, s. 9.

Enforceability of security interest

10. A security interest is not enforceable by or against a third party unless,

(*a*) the collateral is in the possession of the secured party; or

(*b*) the debtor has signed a security agreement that contains a description of the collateral and, if the collateral is or includes fixtures or crops, or oil, gas or other minerals to be extracted, or timber to be cut, identification of the land concerned. R.S.O. 1970, c. 344, s. 10; 1973, c. 102, s. 3.

Delivery of copy of agreement

11. Where a security interest is created or provided for by a security agreement, the secured party shall deliver a copy of the security agreement to the debtor within ten days after the execution thereof, and, if he fails to do so after a request by the debtor, a judge may on summary application by the debtor make an order for the delivery of such a copy to the debtor and may make such order as to costs as he considers just. R.S.O. 1970, c. 344, s. 11.

When security interest attaches

12.—(1) A security interest attaches when,

(*a*) the parties intend it to attach;

(*b*) value is given; and

(*c*) the debtor has rights in the collateral.

Idem

(2) For the purpose of subsection (1), the debtor has no rights in,

(*a*) crops until they become growing crops;

(*b*) fish until they are caught;

(*c*) oil, gas or other minerals until they are extracted; or

(*d*) timber until it is cut. R.S.O. 1970, c. 344, s. 12.

After-acquired property, etc.

13.—(1) Except as provided in subsection (2), a security agreement may cover after-acquired property and the young of animals after conception.

Exception

(2) No security interest attaches under an after-acquired property clause in a security agreement,

(*a*) to crops that become such more than one year after the security agreement has been executed, except that a security interest in crops that is given in conjunction with a lease, purchase or mortgage of land may, if so agreed, attach to crops to be grown on the land concerned during the term of such lease, purchase or mortgage; or

(*b*) to consumer goods, other than accessions, unless the debtor acquires rights in them within ten days after the secured party gives value. R.S.O. 1970, c. 344, s. 13.

Limitation on coverage

14. A purchase-money security interest in consumer goods does not attach to any collateral other than such consumer goods. R.S.O. 1970, c. 344, s. 14.

Future advances

15. A security agreement may secure future advances or other value whether or not the advances or other value are given pursuant to commitment. R.S.O. 1970, c. 344, s. 15.

Agreement not to assert defence against assignee

16. Except as to consumer goods, an agreement by a debtor not to assert against an assignee any claim or defence that he has against his seller or lessor is enforceable by the

assignee who takes the assignment for value, in good faith and without notice, except as to such defences as may be asserted against the holder in due course of a negotiable instrument under the *Bills of Exchange Act* (Canada). R.S.O. 1970, c. 344, s. 16.

R.S.C. 1970, c. B-5

Seller's warranties

17. Where a seller retains a purchase-money security interest in goods,

R.S.O. 1980, c. 462

(*a*) the *Sale of Goods Act* governs the sale and any disclaimer, limitation or modification of the seller's conditions and warranties; and

(*b*) except as provided in section 16, the conditions and warranties in a sale agreement shall not be affected by any security agreement. R.S.O. 1970, c. 344, s. 17.

Provision to accelerate

18. Where a security agreement provides that the secured party may accelerate payment or performance when he considers himself insecure, such provision shall be construed to mean that he has power to do so only if he in good faith believes that the prospect of payment or performance is impaired. R.S.O. 1970, c. 344, s. 18.

Care of collateral

19.—(1) A secured party shall use reasonable care in the custody and preservation of collateral in his possession, and, unless otherwise agreed, in the case of an instrument or chattel paper, reasonable care includes taking necessary steps to preserve rights against prior parties.

Idem, rights and duties of secured party

(2) Unless otherwise agreed, where collateral is in the secured party's possession,

(*a*) reasonable expenses, including the cost of insurance and payment of taxes or other charges incurred in the custody and preservation of the collateral, are chargeable to the debtor and are secured by the collateral;

(*b*) the risk of loss or damage, except where caused by the negligence of the secured party, is on the debtor to the extent of any deficiency in any insurance coverage;

(*c*) the secured party may hold as additional security any increase or profits, except money, received from the collateral, and money so received, unless remitted to the debtor, shall be applied forthwith upon its receipt in reduction of the secured obligation;

(*d*) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(*e*) the secured party may create a security interest in the collateral upon terms that do not impair the debtor's right to redeem it.

Liability for loss

(3) A secured party is liable for any loss or damage caused by his failure to meet any obligations imposed by subsection (1) or (2), but does not lose his security interest.

Use of collateral

(4) A secured party may use the collateral,

(*a*) in the manner and to the extent provided in the security agreement;

(*b*) for the purpose of preserving the collateral or its value; or

(*c*) pursuant to an order of,

(i) the court before which a question relating thereto is being heard, or

(ii) a judge upon application by originating notice to all persons concerned.

Idem

(5) A secured party,

(*a*) is liable for any loss or damage caused by his use of the collateral otherwise than as authorized by subsection (4); and

(*b*) is subject to being ordered or restrained as provided in subsection 63 (1). R.S.O. 1970, c. 344, s. 19.

Statements of account

20.—(1) A debtor or a person having an interest in the collateral or an execution creditor may, by a notice in writing, require the secured party to furnish to him any one or more of,

(*a*) a statement in writing of the amount of the indebtedness and of the terms of payment thereof as of the date specified in the notice;

(*b*) a statement in writing approving or correcting as of the date specified in the notice a statement of the collateral attached to the notice;

(*c*) a statement in writing approving or correcting as of the date specified in the notice a statement of the amount of the indebtedness and of the terms of payment thereof; or

(*d*) a true copy of the security agreement. 1973, c. 102, s. 4 (1).

Idem

(2) In the case of clause (1) (*b*), if the secured party claims a security interest in all of a particular type of collateral owned by the debtor, he may so indicate in lieu of approving or correcting the itemized list of such collateral contained in the statement of the collateral and attached to the notice. R.S.O. 1970, c. 344, s. 20 (2).

Time for compliance with notice, liability for failure to answer

(3) Subject to payment of any fee required pursuant to subsection (6), the secured party shall answer a notice given under subsection (1) within fifteen days after he receives it, and, if without reasonable excuse he fails so to do or his answer is incomplete or incorrect, he is liable for any loss or damage caused thereby to the debtor or any other person. R.S.O. 1970, c. 344, s. 20 (3); 1973, c. 102, s. 4 (2).

Successors in interest

(4) Where the person receiving a notice under subsection (1) no longer has an interest in the obligation or collateral, he shall, within fifteen days after he receives the notice, disclose the name and address of the latest successor in interest known to him, and, if without reasonable excuse he fails so to do or his answer is incomplete or incorrect, he is liable for any loss or damage caused thereby to the debtor or any other person.

Idem

(5) A successor in interest shall be deemed to be the secured party for the purposes of this section when he receives a notice under subsection (1). R.S.O. 1970, c. 344, s. 20 (4, 5).

Fee

(6) The secured party may require payment to him of a fee of $2 for each statement or copy of the security agreement required pursuant to subsection (1), but the debtor is entitled to a statement without charge once in every six months. 1973, c. 102, s. 4 (3).

PART III

PERFECTION OF INTEREST

Time when perfected

21. A security interest is perfected when,

(*a*) it has attached; and

(*b*) all steps required for perfection under any provision of this Act have been completed,

regardless of the order of occurrence. R.S.O. 1970, c. 344, s. 21.

Where unperfected security interest subordinate

22.—(1) Except as provided in subsection (3), an unperfected security interest is subordinate to,

(*a*) the interest of a person,

(i) who is entitled to a priority under this or any other Act, or

(ii) who, without knowledge of the security interest and before it is perfected, assumes control of the collateral through legal process, or

(iii) who represents the creditors of the debtor as assignee for the benefit of creditors, trustee in bankruptcy or receiver; and

(*b*) the interest of a transferee who is not a secured party to the extent that he gives value without knowledge of the security interest and before it is perfected,

(i) of chattel paper, documents of title, securities, instruments or goods in bulk or otherwise, not in the ordinary course of the business of the transferor and where the transferee receives delivery of the collateral, or

(ii) of intangibles.

Idem

(2) The rights of a person under subclause (1) (*a*) (iii) in respect of the collateral are referable to the date from which his status has effect and arise without regard to the personal knowledge of the representative if any represented creditor was, on the relevant date, without knowledge of the unperfected security interest.

Purchase-money security interest

(3) A purchase-money security interest that is registered before or within ten days after the debtor's possession of the collateral commences has priority over,

(*a*) an interest set out in subclause (1) (*a*) (ii) or (iii); and

(*b*) transfers in bulk or otherwise, not in the ordinary course of business, occurring between the security interest's attaching and its being registered. R.S.O. 1970, c. 344, s. 22.

Continuity of perfection

23.—(1) If a security interest is originally perfected in any way permitted under this Act and is again perfected in some way under this Act without an intermediate period when it was unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this Act.

Assignees

(2) An assignee of a security interest succeeds in so far as its perfection is concerned to the position of the assignor at the time of the assignment. R.S.O. 1970, c. 344, s. 23.

Perfection by possession

24. Except as provided in section 26, possession of the collateral by the secured party, or on his behalf by a person other than the debtor or the debtor's agent, perfects a security interest in,

(*a*) chattel paper;

(*b*) goods;

(*c*) instruments;

(*d*) securities;

(*e*) letters of credit and advices of credit; or

(*f*) negotiable documents of title,

but subject to section 23, only during its actual holding as collateral. R.S.O. 1970, c. 344, s. 24.

Perfection by registration

25.—(1) Subject to section 21, registration perfects a security interest in,

(*a*) chattel paper;

(*b*) goods;

(*c*) intangibles; or

(*d*) documents of title.

Idem

(2) A security interest is not perfected until it is registered, except in the case of a security interest,

(*a*) in collateral in possession of the secured party under section 24; or

(*b*) temporarily perfected in instruments, securities or negotiable documents of title under section 26. R.S.O. 1970, c. 344, s. 25.

Temporary perfection

26.—(1) A security interest in instruments, securities or negotiable documents of title is a perfected security interest for the first ten days after it attaches to the extent that it arises for new value given under a security agreement signed by the debtor and the secured party. R.S.O. 1970, c. 344, s. 26 (1); 1973, c. 102, s. 5.

Idem

(2) A perfected security interest in,

(*a*) an instrument that a secured party delivers to the debtor for the purpose of,

(i) ultimate sale or exchange,

(ii) presentation, collection or renewal, or

(iii) registration of transfer; or

(*b*) a negotiable document of title or goods held by a bailee that are not covered by a negotiable document of title, which document of title or goods the secured party makes available to the debtor for the purpose of,

(i) ultimate sale or exchange,

(ii) loading, unloading, storing, shipping or transshipping, or

(iii) manufacturing, processing, packaging or otherwise dealing with goods in a manner preliminary to their sale or exchange,

remains perfected for the first ten days after the collateral comes under the control of the debtor.

Idem

(3) Beyond the period of ten days referred to in subsection (1) or (2), a security interest under this section becomes subject to the provisions of this Act for perfecting a security interest. R.S.O. 1970, c. 344, s. 26 (2, 3).

Perfecting as to proceeds

27.—(1) Subject to this Act, a security interest in collateral that is dealt with so as to give rise to proceeds,

(*a*) continues as to the collateral, unless the secured party expressly or impliedly authorized such dealing; and

(*b*) extends to the proceeds. R.S.O. 1970, c. 344, s. 27 (1).

Idem

(2) The security interest in proceeds is a perfected security interest if the security interest in the collateral is perfected but it ceases to be a perfected security interest and becomes unperfected after ten days after receipt of the proceeds by the debtor unless,

(*a*) a financing statement in the prescribed form in respect of the collateral is registered; or

(*b*) the security interest in the proceeds is perfected before the expiration of the ten day period,

but there is no perfected security interest in proceeds that are not identifiable or traceable. 1973, c. 102, s. 6.

Perfecting as to goods held by bailee

28.—(1) A security interest in goods in the possession of a bailee who has issued a negotiable document of title covering them is perfected by perfecting a security interest in the document, and any security interest in them otherwise perfected while they are so covered is subject thereto.

Idem

(2) A security interest in goods in the possession of a bailee, other than a bailee mentioned in subsection (1), is perfected by,

(*a*) issuance of a document of title in the name of the secured party;

(*b*) a holding on behalf of the secured party pursuant to section 24; or

(*c*) registration as to the goods. R.S.O. 1970, c. 344, s. 28.

Goods returned or repossessed

29.—(1) A security interest in goods that are the subject of a sale or exchange and that are returned to, or repossessed by,

(*a*) the person who sold or exchanged them; or

(*b*) a transferee of an intangible or chattel paper resulting from the sale of them,

reattaches to the extent that the secured indebtedness remains unpaid.

Idem

(2) Where the security interest was perfected by a registration that is still effective at the time of the sale or

exchange, it reattaches as a perfected interest, but otherwise requires for its perfection a registration or a taking of possession by the secured party.

Transferees

(3) A transferee of,

(*a*) an intangible resulting from a sale; or

(*b*) except as otherwise provided in section 30, chattel paper resulting from a sale,

has, as against the transferor, a security interest that is,

(*c*) subordinate to a security interest under subsection (1) that was a perfected interest when the goods became the subject of the sale or exchange; and

(*d*) otherwise subject to section 35.

Idem

(4) A transferee of an intangible or chattel paper resulting from a sale is, with respect to persons asserting interests in the goods under provisions other than subsections (1), (2) and (3), subject to the provisions of this Act for perfecting a security interest. R.S.O. 1970, c. 344, s. 29.

Effect of perfection on purchasers of goods in ordinary course of business

30.—(1) A purchaser of goods from a seller who sells the goods in the ordinary course of business takes them free from any security interest therein given by his seller even though it is perfected and the purchaser actually knows of it.

Idem, purchasers of chattel paper

(2) A purchaser of chattel paper who takes possession of it in the ordinary course of his business has, to the extent that he gives new value, priority over any other security interest in it,

(*a*) that was perfected under section 25 if he did not actually know at the time he took possession that the chattel paper was subject to a security interest; or

(*b*) that has attached to proceeds of inventory under section 27, whatever the extent of his knowledge.

Idem, purchasers of non-negotiable instruments

(3) A purchaser of a non-negotiable instrument who takes possession of it in the ordinary course of his business has priority to the extent that he gives new value over a security interest in it that was perfected under section 26 if he did not actually know at the time he took possession that the instrument was subject to a security interest. R.S.O. 1970, c. 344, s. 30.

Bona fide purchasers of negotiable instruments, etc.

R.S.C. 1970, c. B-5

31.—(1) The rights of,

(*a*) a holder in due course of a bill, note or cheque within the meaning of the *Bills of Exchange Act* (Canada);

(*b*) a holder of a negotiable document of title who takes it in good faith for value; or

(*c*) a *bona fide* purchaser of securities,

are to be determined without regard to this Act.

Idem

(2) Registration under this Act is not such notice as to affect the rights of persons mentioned in subsection (1). R.S.O. 1970, c. 344, s. 31.

Priority of liens for materials and services

32. Where a person in the ordinary course of business furnishes materials or services with respect to goods in his possession that are subject to a security interest, any lien that he has in respect of such materials or services has priority over a perfected security interest unless the lien is given by an Act that does not provide that the lien has such priority. R.S.O. 1970, c. 344, s. 32.

Alienation of rights of debtors

33. The rights of a debtor in collateral may be transferred voluntarily or involuntarily notwithstanding a provision in the security agreement prohibiting transfer or declaring a transfer to be a default, but no transfer prejudices the rights of the secured party under the security agreement or otherwise. R.S.O. 1970, c. 344, s. 33.

Special priorities, crops

34.—(1) A perfected security interest in crops or their proceeds given for a consideration to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise has priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving the consideration knew of the earlier security interest. R.S.O. 1970, c. 344, s. 34 (1).

Idem, purchase-money security interests, inventory

(2) A purchase-money security interest in inventory or its proceeds has priority over any other security interest in the same collateral,

(*a*) if the purchase-money security interest was perfected at the time the debtor received possession of the collateral; and

(*b*) if any secured party, whose security interest was actually known to the holder of the purchase-money security interest or who, prior to the registration by the holder of the purchase-money security interest, had registered a financing statement in the prescribed form covering the same items or type of inventory, had received notification of the purchase-money security interest before the debtor received possession of the collateral covered by the purchase-money security interest; and

(*c*) if such notification states that the person giving the notice had or expected to acquire a purchase-money security interest in inventory of the debtor, describing such inventory by item or type. R.S.O. 1970, c. 344, s. 34 (2); 1973, c. 102, s. 7.

Idem, purchase-money security interests, other than inventory

(3) A purchase-money security interest in collateral or its proceeds, other than inventory, has priority over any other security interest in the same collateral if the purchase-money security interest was perfected at the time the debtor obtained possession of the collateral or within ten days thereafter. R.S.O. 1970, c. 344, s. 34 (3).

Priorities, general rule

35.—(1) If no other provision of this Act is applicable, priority between security interests in the same collateral shall be determined,

(*a*) by the order of registration, if the security interests have been perfected by registration;

(*b*) by the order of perfection, unless the security interests have been perfected by registration; or

(*c*) by the order of attachment under subsection 12 (1), if no security interest has been perfected.

Idem

(2) For the purposes of subsection (1), a continuously perfected security interest shall be treated at all times as if perfected by registration, if it was originally so perfected, and it shall be treated at all times as if perfected otherwise than by registration if it was originally perfected otherwise than by registration. R.S.O. 1970, c. 344, s. 35.

Priority of security interests, fixtures

36.—(1) Subject to subsection (3) of this section and notwithstanding subsection 34 (3), a security interest that attached to goods before they became fixtures has priority as to the goods over the claim of any person who has an interest in the real property.

Idem

(2) Subject to subsection (3), a security interest that attached to goods after they became fixtures has priority over the claim of any person who subsequently acquired an interest in the real property, but not over any person who had a registered interest in the real property at the time the security interest attached to the goods and who has not consented in writing to the security interest or disclaimed an interest in the goods as fixtures.

Exceptions

(3) The security interest referred to in subsections (1) and (2) are subordinate to the interest of,

(*a*) a subsequent purchaser or mortgagee for value of an interest in the real property;

(*b*) a creditor with a lien on the real property subsequently obtained as a result of judicial process; or

(*c*) a creditor with a prior encumbrance of record on the real property in respect of subsequent advances,

if the subsequent purchase or mortgage was made or the lien was obtained or the subsequent advance under the prior encumbrance was made or contracted for, as the case may be, without actual notice of the security interest.

Removal of collateral

(4) If a secured party, by virtue of subsection (1) or (2) and subsection (3), has priority over the claim of a person having an interest in the real property, he may on default, subject to the provisions of this Act respecting default, remove his collateral from the real property if, unless otherwise agreed, he reimburses any encumbrancer or owner of the real property who is not the debtor for the cost of repairing any physical injury excluding diminution in the value of the real property caused by the absence of the goods removed or by the necessity for replacement, but a person so entitled to reimbursement may refuse permission to remove until the secured party has given adequate security for any reimbursement arising under this subsection.

Retention of collateral

(5) A person having an interest in real property that is subordinate to a security interest by virtue of subsection (1) or (2) and subsection (3) may, before the collateral has been removed from the real property by the secured party in accordance with subsection (4), retain the collateral upon payment to the secured party of the amount owing under the security interest having priority over his claim. R.S.O. 1970, c. 344, s. 36.

Accessions

37.—(1) Subject to subsection (2) and to section 38 and notwithstanding subsection 34 (3),

(*a*) a security interest in an accession that attached before the goods became an accession has priority as to the accession over the claim of any person in respect of the whole; and

(*b*) a security interest in goods that attached after the goods became an accession has priority over the claim of any person who subsequently acquired an interest in the whole, but not against a person who had an interest in the whole at the date of attachment of the security interest in the accession and who has not consented in writing to the security interest in the accession or disclaimed an interest in the accession as part of the whole.

Exceptions

(2) A security interest referred to in subsection (1) is subordinate to the interest of,

(*a*) a subsequent purchaser for value of an interest in the whole; or

(*b*) a creditor with a lien on the whole, subsequently obtained as a result of judicial process; or

(*c*) a creditor with a prior perfected security interest in the whole to the extent that he makes subsequent advances,

if the subsequent purchase was made, the lien was obtained or the subsequent advance under the prior perfected security interest was made or contracted for without notice of the security interest.

Removal of collateral

(3) If a secured party, by virtue of subsections (1) and (2), has an interest in an accession that has priority over the claim of any person having an interest in the whole, he may, on default, subject to the provisions of this Act respecting default, remove his collateral from the whole if, unless otherwise agreed, he reimburses any encumbrancer or owner of the whole who is not the debtor for the cost of repairing any physical injury excluding diminution in value of the whole caused by the absence of the goods removed or by the necessity for replacement, but a person so entitled to reimbursement may refuse permission to remove until the secured party has given adequate security for any reimbursement arising under this subsection.

Retention of collateral

(4) A person having a security interest in the whole that is subordinate to a security interest by virtue of subsections (1) and (2) may, before the collateral has been removed by the secured party in accordance with subsection (3), retain the collateral upon payment to the secured party of the amount owing under the security interest having priority over his claim. R.S.O. 1970, c. 344, s. 37.

Commingled goods

38. A perfected security interest in goods that subsequently become part of a product or mass continues in the product or mass if the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass, and, if more than one security interest attaches to the product or mass, the security interest rank equally according to the ratio that the cost of the goods to which each interest originally attached bears to the cost of the total product or mass. R.S.O. 1970, c. 344, s. 38.

Priority subject to sub-ordination

39. A secured party may, in the security agreement or otherwise, subordinate his security interest to any other security interest. R.S.O. 1970, c. 344, s. 39.

Account debtors

40.—(1) Unless an account debtor has made an enforceable agreement not to assert defences or claims arising out of a sale as provided by section 16, the rights of an assignee are subject to,

(*a*) all the terms of the contract between the account debtor and the assignor and any defence or claim arising therefrom; and

(*b*) any other defence or claim of the account debtor against the assignor that accrued before the account debtor received notice of the assignment.

Idem

(2) The account debtor may pay the assignor until the account debtor receives notice, reasonably identifiable with the relevant rights, that the account has been assigned, and, if requested by the account debtor, the assignee shall furnish proof within a reasonable time that the assignment has been made, and, if he does not do so, the account debtor may pay the assignor. R.S.O. 1970, c. 344, s. 40.

PART IV

REGISTRATION

Registration system

41.—(1) A registration system, including a central office and branch offices, shall be established for the purposes of this Act.

(2) The central office of the registration system shall be located at or near the City of Toronto. Central office

(3) Branch offices of the registration system shall be established at such places as are designated by the regulations. R.S.O. 1970, c. 344, s. 41. Branch offices

42.—(1) There shall be a registrar of personal property security and a branch registrar for each branch office. R.S.O. 1970, c. 344, s. 42 (1). Registrar, appointment

(2) It shall be the function of the registrar, under the direction of the Director of Land Registration appointed under the *Registry Act*, to supervise the operation of the registration system established for the purposes of this Act. R.S.O. 1970, c. 344, s. 42 (2); 1972, c. 1, s. 52. function R.S.O. 1980, c. 445

(3) The registrar and each branch registrar shall have a seal of office in such form as the Lieutenant Governor in Council approves. R.S.O. 1970, c. 344, s. 42 (3). seal of office

43. The registrar and each branch registrar may designate one or more persons on the staff of his office to act on his behalf. R.S.O. 1970, c. 344, s. 43. Signing officers

44.—(1) Upon the request of any person for a search of the individual debtor index, business debtor index or motor vehicle serial number index and upon payment of the prescribed fee, the registrar shall, Certificate of registrar

(*a*) issue a certificate stating whether there is registered at the time mentioned in the certificate a financing statement or financing change statement the registration of which is still effective in which the person named or the motor vehicle serial number shown in the certificate is shown in the designated place on the financing statement or financing change statement as a debtor or as a serial number, as the case may be, and, if there is, the registration number of it and any other related information recorded in the central file of the registration system; or

(*b*) furnish a certified copy of a registered financing statement or a registered financing change statement. 1977, c. 23, s. 1 (1).

(2) A certificate issued under clause (1) (*a*) is *prima facie* evidence of the contents thereof. R.S.O. 1970, c. 344, s. 44 (2). Proof of certificates

Proof of certified copies

(3) A certified copy furnished under clause (1) (*b*) is *prima facie* evidence of the contents of the document so certified. R.S.O. 1970, c. 344, s. 44 (3); 1977, c. 23, s. 1 (2).

Assurance Fund

45.—(1) There shall be an account in the Consolidated Revenue Fund to be known as "The Personal Property Security Assurance Fund", referred to in this section as "the Fund", into which shall be paid the prescribed portion of the fees received under this Act.

Interest

(2) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined from time to time by the Lieutenant Governor in Council, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the end of the previous calendar year.

Persons suffering damage to be compensated

(3) Any person who suffers loss or damage as a result of his reliance upon a certificate of the registrar issued under section 44 that is incorrect because of an error or omission in the operation of the system of registration, recording, and production of information under this Part, is entitled to have compensation paid to him out of the Fund so far as the Fund is sufficient for that purpose, having regard to any other charges thereon, if he makes a claim therefor under subsection (4) within one year from the time of his having suffered the loss or damage.

Claim for compensation

(4) A person claiming to be entitled to payment of compensation out of the Fund shall make application therefor in writing to the registrar, setting out therein his full name and address and the particulars of his claim.

Reference to Master

(5) The registrar shall refer the application to a Master of the Supreme Court who shall issue such directions as he thinks proper, hold a hearing, determine the claimant's entitlement to compensation, the amount thereof, and, if awarded, the costs of the proceedings.

Master's certificate

(6) The Master shall make his findings and embody his conclusions in the form of a certificate and send by registered mail one copy thereof to the claimant at the address shown in the application and one copy to the registrar.

Confirmation of certificate

(7) The certificate of the Master shall be deemed to be confirmed at the expiration of thirty days from the date of mailing it to the claimant, unless notice of appeal is served within that time.

Appeal

(8) The claimant or the registrar may appeal to the Divisional Court at any time before the certificate of the Master is confirmed,

and the procedure thereon shall be in accordance with the rules of court.

Payment out of Fund

(9) When the registrar receives a certificate of the Master under subsection (6) and the time for any appeal has expired or, where an appeal is taken, it is disposed of, and it is finally determined that the claimant is entitled to payment of compensation out of the Fund, the registrar shall certify to the Treasurer of Ontario the sum found to be payable, including any costs awarded to the claimant, and the Treasurer shall pay such sum to the claimant out of the Fund. R.S.O. 1970, c. 344, s. 45.

Place of registration and effective time of registration

46. A financing statement or financing change statement to be registered under this Act may be tendered for registration,

(*a*) by personal delivery to any branch office; or

(*b*) by mail addressed to an address fixed by the regulations,

and the registration is effective from the time assigned to the registration by the registrar or branch registrar. 1973, c. 102, s. 9, *part*.

Registration of financing statement

47.—(1) In order to register under this Act for the purpose of perfecting a security interest that is created in or provided for in a security agreement, a financing statement in the prescribed form shall be registered.

Before security agreement signed

(2) Where the collateral is goods to be held for sale or lease, a financing statement in the prescribed form may be registered before a security agreement is signed for the purpose of perfecting a security interest in such goods.

Time for registration

(3) The financing statement referred to in subsection (1) shall not be registered before the execution of the security agreement or after thirty days from the date of the execution of the security agreement.

Failure to register

(4) Subject to section 64, a financing statement that is not registered in accordance with the provisions of subsection (3) does not constitute notice or perfection under subsection 53 (1).

Errors

(5) An error of a clerical nature or in an immaterial or non-essential part of a financing statement or financing change statement that has not misled does not invalidate the registration or destroy the effect of the registration. 1973, c. 102, s. 9, *part*.

Assignments

48.—(1) Where a security interest is perfected by registration and the secured party has assigned his interest, a

financing change statement in the prescribed form may be registered.

Idem

(2) Where a security interest has not been perfected by registration and the secured party has assigned his interest, a financing statement in the prescribed form may be registered in which the assignee is shown as the secured party.

Idem

(3) Upon the registration of the financing change statement under subsection (1) or the financing statement under subsection (2), the assignee becomes the secured party of record. 1973, c. 102, s. 9, *part*.

Transfer of collateral

49.—(1) Where a security interest has been perfected by registration and the debtor with the consent of the secured party transfers his interest in the collateral, the transferee becomes a debtor and the security interest becomes unperfected and the registration ceases to constitute notice unless the secured party registers a financing change statement in the prescribed form within fifteen days of the time he consents to the transfer.

Idem

(2) Where a security interest has been perfected by registration and the secured party learns that,

(*a*) the debtor has transferred his interest in the collateral; or

(*b*) the debtor has changed his name,

the security interest becomes unperfected and the registration ceases to constitute notice fifteen days after the secured party learns of,

(*c*) the transfer and the name of the transferee; or

(*d*) the change of name and the new name of the transferee,

as the case may be, unless he registers a financing change statement in the prescribed form within such fifteen days.

Financing change statement

(3) A security interest that becomes unperfected under subsection (1) or (2) may thereafter be perfected by registering a financing change statement in the prescribed form at any time during the remainder of the unexpired registration period. 1973, c. 102, s. 9, *part*.

Amendments

50. Where a security interest is perfected by registration, and,

(*a*) the security agreement to which it relates is amended;

(*b*) the name or address of the secured party or debtor is changed; or

(*c*) an error or omission of a clerical nature was made in the preparation of the financing statement or financing change statement that is registered in respect of the security interest,

a financing change statement in the prescribed form may be registered at any time during the period that the registration is effective. 1973, c. 102, s. 9, *part*.

Subordination

51. Where a secured party of record has subordinated his interest to the interest of another person, a financing change statement in the prescribed form may be registered at any time during the period that the registration of the subordinated interest is effective. 1973, c. 102, s. 9, *part*.

Renewal

52. Where a security interest has been perfected by registration, the registration may be renewed,

(*a*) before the expiration of the registration period, by the registration of a financing change statement in the prescribed form; or

(*b*) notwithstanding subsection 47 (3), after the expiration of the registration period, by the registration of a financing statement in the prescribed form. 1973, c. 102, s. 9, *part*.

Effect of registration

53.—(1) Where the collateral is other than instruments, securities, letters of credit, advices of credit or negotiable documents of title, registration under this Act of,

(*a*) a financing statement constitutes,

(i) notice of the security interest to which it relates to all persons claiming any interest in such collateral, and

(ii) subject to section 21, perfection of the security interest,

during the period of three years following such registration;

(*b*) a financing change statement under clause 52 (*a*) extends the effect of the registration of the financing statement to which it relates during the period of three years following the registration of the financing change statement;

(*c*) a financing statement under clause 52 (*b*) extends the effect of the registration of the original financing statement during the period of three years following the registration of the financing statement under clause 52 (*b*), but when such registration has prejudiced the rights that any person acquired by an act or thing done by him during the period that the security interest was unperfected, the registration shall be presumed not to have occurred for the purpose of obtaining such rights;

(*d*) a financing change statement under subsection 49 (3) extends the effect of the registration of the financing statement to which it relates for the remainder of the unexpired registration period, but when such registration has prejudiced the rights that any person acquired by an act or thing done by him during the period that the security interest was unperfected, the registration shall be presumed not to have occurred for the purpose of obtaining such rights;

(*e*) any other financing change statement constitutes notice thereof to all persons claiming any interest in such collateral during the remainder of the period for which the registration of the financing statement is effective.

Three year period

(2) For the purposes of this section, the period of three years in respect of the registration of a financing statement or a financing change statement is a period of time commencing with the time assigned to the registration of the statement by the registrar or branch registrar and ending with the expiry of the third anniversary of the date of the registration. 1973, c. 102, s. 9, *part*.

Fixtures

54.—(1) Where the collateral is or includes fixtures or goods that may become fixtures, or crops, or oil, gas or other minerals to be extracted, or timber to be cut, a notice in the prescribed form may be registered in the proper land registry office.

Discharge of notice

(2) A notice registered under subsection 1 may be discharged by a certificate in the prescribed form and the certificate may be registered in the proper land registry office.

Effect of registration

(3) The registration of the notice under subsection (1) shall, for the purposes of subsection 36 (3), constitute actual notice of the security interest. 1973, c. 102, s. 9, *part*.

Discharge or partial discharge of registration

55.—(1) Where a security interest is perfected by registration and the collateral or proceeds, as the case requires, is released or partially released, the registration may be discharged or partially discharged by the registration of a financing change statement in the prescribed form.

Idem

(2) The financing change statement referred to in subsection (1) shall not be registered unless financing change statements in respect of all assignments by the secured party or transfers by the debtor are registered.

Demand

(3) Where a financing statement is registered under this Act, and,

(*a*) all the obligations under the security agreement to which it relates have been performed; or

(*b*) it is agreed to release part of the collateral covered by the security agreement to which it relates upon payment or performance of certain of the obligations under the security agreement, then upon payment or performance of such obligations,

any person having an interest in the collateral covered by the security agreement may deliver a written demand to the secured party, either personally or by registered mail, demanding a financing change statement referred to in subsection (1) and the secured party shall sign and deliver personally or by registered mail to the person demanding it at the place set out in the demand the financing change statement together with financing change statements in respect of all assignments by the secured party of the security interest or transfers by the debtor of his interest in the collateral in respect of which financing change statements have not been registered.

Failure to deliver

(4) Where the secured party, without reasonable excuse, fails to deliver the financing change statements required under subsection (3) within ten days after receipt of a demand therefor, he shall pay $100 to the person making the demand and any damages resulting from the failure, which sum and damages are recoverable in any court of competent jurisdiction.

Security or payment into court

(5) Upon application to the county or district court by originating notice to all persons concerned or to such persons as the judge may determine, the judge may,

(*a*) allow security for or payment into court of the amount claimed by the secured party and such costs as he may fix, and thereupon order the secured party to discharge or partially discharge, as the case may be, the registration of the financing statement; or

(*b*) order upon any ground he considers proper that the registrar amend the recorded information to indicate that the registration of the financing statement has been discharged or partially discharged, as the case may be. 1973, c. 102, s. 9, *part*.

PART V

DEFAULT—RIGHTS AND REMEDIES

Rights and remedies cumulative

56.—(1) The rights and remedies referred to in this Part are cumulative.

Secured party's rights and remedies

(2) Where the debtor is in default under a security agreement, the secured party has, in addition to any other rights and remedies, the rights and remedies provided in the security agreement except as limited by subsection (5), the rights and remedies provided in this Part and, when in possession, the rights, remedies and duties provided in section 19.

Secured party's remedies

(3) The secured party may enforce the security interest by any method available in or permitted by law and, if the collateral is or includes documents of title, the secured party may proceed either as to the documents of title or as to the goods covered thereby, and any method of enforcement that is available with respect to the documents of title is also available, with necessary modifications, with respect to the goods covered thereby.

Debtor's rights and remedies

(4) Where the debtor is in default under a security agreement, he has, in addition to the rights and remedies provided in the security agreement and any other rights and remedies, the rights and remedies provided in this Part and in section 19.

Waiver and variation of rights and duties

(5) Except as provided in sections 61 and 62, the provisions of subsections 59 (3), (4) and (5) and of sections 60, 61, 62 and 63, to the extent that they give rights to the debtor and impose duties upon the secured party, shall not be waived or varied, but the parties may by agreement determine the standards by which the rights of the debtor and the duties of the secured party are to be measured, so long as such standards are not manifestly unreasonable having regard to the nature of such rights and duties.

Where agreement covers both real and personal property

(6) Where a security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property in accordance with his rights and remedies in respect of the real property, in which case this Part does not apply.

(7) A security interest does not merge merely because a secured party has reduced his claim to judgment. R.S.O. 1970, c. 344, s. 55. No merger in judgment

57.—(1) Where so agreed and in any event upon default under a security agreement, a secured party is entitled, Collection rights of secured party

(*a*) to notify any account debtor or any obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral; and

(*b*) to take control of any proceeds to which he is entitled under section 27.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the account debtors or obligors on instruments shall proceed in a commercially reasonable manner and may deduct his reasonable expenses of realization from the collections. R.S.O. 1970, c. 344, s. 56. Idem

58. Upon default under a security agreement, Secured party's right to take possession upon default

(*a*) the secured party has, unless otherwise agreed, the right to take possession of the collateral by any method permitted by law;

(*b*) if the collateral is equipment and the security interest has been perfected by registration, the secured party may, in a reasonable manner, render such equipment unusable without removal thereof from the debtor's premises, and the secured party shall thereupon be deemed to have taken possession of such equipment; and

(*c*) the secured party may dispose of collateral under section 59 on the debtor's premises. R.S.O. 1970, c. 344, s. 57.

59.—(1) Upon default under a security agreement, the secured party may dispose of any of the collateral in its condition either before or after any commercially reasonable repair, processing or preparation for disposition, and the proceeds of the disposition shall be applied consecutively to, Secured party's right to dispose of collateral upon default

(*a*) the reasonable expenses of retaking, holding, repairing, processing, preparing for disposition and disposing of the collateral and, to the extent pro-

vided for in the security agreement and not prohibited by law, any other reasonable expenses incurred by the secured party;

(*b*) the satisfaction of the obligation secured by the security interest of the party making the disposition; and

(*c*) the satisfaction of the obligation secured by any subordinate security interest in the collateral if written demand therefor is received by the party making the disposition before the distribution of the proceeds is completed.

Request for proof of interest

(2) Where a written demand under clause (1) (*c*) is received by the secured party, he may request the holder of the subordinate security interest to furnish him with reasonable proof of such holder's interest, and, unless such holder furnishes such proof within a reasonable time, the secured party need not comply with such demand.

Methods of disposition

(3) Collateral may be disposed of in whole or in part, and any such disposition may be by public sale, private sale, lease or otherwise and, subject to subsection (5), may be made at any time and place and on any terms so long as every aspect of the disposition is commercially reasonable.

Secured party's right to delay disposition of collateral

(4) The secured party may, subject to subsection 61 (1), retain the collateral in whole or in part for such period of time as is commercially reasonable. R.S.O. 1970, c. 344, s. 58 (1-4).

Notice to be given by secured party

(5) Unless the collateral is perishable or unless the secured party believes on reasonable grounds that the collateral will decline speedily in value, the secured party shall give to the debtor and to any other person who has a security interest in the collateral that is perfected by registration against the name of the debtor and to any other person who is known by the secured party to have a security interest in the collateral not less than fifteen days notice in writing containing,

(*a*) a brief description of the collateral;

(*b*) the amount required to satisfy the obligation secured by his security interest;

(*c*) the amount of the applicable expenses referred to in clause (1) (*a*) or, in a case where the amount of such expenses has not been determined, his reasonable estmate thereof;

(*d*) a statement that upon payment of the amounts due the debtor may redeem the collateral;

(*e*) a statement that unless the amounts due are paid the collateral will be disposed of and the debtor may be liable for any deficiency; and

(*f*) the date, time and place of any public sale or of the date after which any private disposition of the collateral is to be made. 1973, c. 102, s. 10.

Service of notice

(6) The notice required by subsection (5) shall be served personally upon or left at the residence or last known place of abode of the party to be served or may be sent by registered mail to his last known post office address.

Secured party's right to purchase collateral

(7) The secured party may purchase the collateral or any part thereof only at a public sale.

Effect of disposition of collateral

(8) Where collateral is disposed of in accordance with this section, the disposition discharges the security interest of the secured party making the disposition and, if such disposition is made to a *bona fide* purchaser for value, discharges also any subordinate security interest and terminates the debtor's interest in the collateral.

Idem

(9) Where collateral is disposed of by a secured party after default otherwise than in accordance with this section, then,

(*a*) in the case of a public sale, if the purchaser has no knowledge of any defect in the sale and if he does not purchase in collusion with the secured party, other bidders or the person conducting the sale; or

(*b*) in any other case, if the purchaser acts in good faith,

the disposition discharges the security interest of the secured party making the disposition and, where the disposition is made to a purchaser for value, discharges also any subordinate security interest and terminates the debtor's interest in the collateral.

Certain transfers of collateral

(10) A person who is liable to a secured party under a guarantee, endorsement, covenant, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party, and such a transfer of collateral is not a disposition of the collateral. R.S.O. 1970, c. 344, s. 58 (6-10).

Surplus

60. Where a security agreement secures an indebtedness and the secured party has dealt with the collateral under section 57 or has disposed of it in accordance with section 59 or otherwise, he shall account for any surplus to any person, other than the debtor, whom the secured party knows to be the owner of the collateral, and, in the absence of such knowledge, he shall account to the debtor for any surplus. R.S.O. 1970, c. 344, s. 59.

Compulsory disposition of collateral, consumer goods

61.—(1) Where the security agreement secures an indebtedness and the collateral is consumer goods and the debtor has paid at least 60 per cent of the indebtedness secured and has not signed, after default, a statement renouncing or modifying his rights under this Part, the secured party who has taken possession of the collateral shall, within ninety days after taking possession, dispose of or contract to dispose of the collateral under section 59, and, if he fails to do so, the debtor may proceed under section 63, or in an action for damages or loss sustained. R.S.O. 1970, c. 344, s. 60 (1).

Retention of collateral

(2) In any case other than that mentioned in subsection (1), a secured party in possession of the collateral may, after default, propose to retain the collateral in satisfaction of the obligation secured, and notification of such proposal shall be given to the debtor and to any other person whom such secured party knows to be the owner of the collateral and, except in the case of consumer goods, to any other person who has a security interest in the collateral and who has registered a financing statement in the prescribed form under this Act indexed in the name of the debtor or who is known by the secured party in possession to have a security interest in the collateral. R.S.O. 1970, c. 344, s. 60 (2); 1973, c. 102, s. 11.

Idem

(3) If any person entitled to notification under subsection (2) objects in writing within fifteen days after being notified, the secured party in possession shall dispose of the collateral under section 59, and, in the absence of any such objection, such secured party shall, at the expiration of such period of fifteen days, be deemed to have irrevocably elected to retain the collateral in satisfaction of the obligation secured, and thereafter is entitled to hold or dispose of the collateral free of all rights and interests therein of any person entitled to notification under subsection (2) who was given such notification. R.S.O. 1970, c. 344, s. 60 (3).

Redemption of collateral

62. At any time before the secured party has disposed of the collateral by sale or exchange or contracted for such disposition under section 59 or before the secured party shall be deemed to have irrevocably elected to retain the collateral

in satisfaction of the obligation under subsection 61 (2), the debtor, or any person other than the debtor who is the owner of the collateral, or any secured party other than the secured party in possession, may, unless he has otherwise agreed in writing after default, redeem the collateral by tendering fulfilment of all obligations secured by the collateral together with a sum equal to the reasonable expenses of retaking, holding, repairing, processing, preparing the collateral for disposition and in arranging for its disposition, and, to the extent provided for in the security agreement, the reasonable solicitor's costs and legal expenses. R.S.O. 1970, c. 344, s. 61.

Remedies for failure of secured party to comply with this Part

63.—(1) Where a secured party in possession of collateral is not complying with any of the obligations imposed by section 19 or, after default, is not proceeding in accordance with this Part or the account is disputed, the debtor or any person who is the owner of the collateral or the creditors of either of them or any person other than such secured party who has an interest in the collateral may apply to the Supreme Court or to a county or district court having jurisdiction with respect thereto, and the court may, upon hearing any such application, direct that the secured party comply with the obligations imposed by section 19, or that the collateral be or be not disposed of, or order an account to be taken or make such other or further order as the court considers just.

Idem

(2) If the disposition of the collateral has been made otherwise than in accordance with this Part,

(*a*) the debtor or any other person entitled to notice under subsection 59 (5) or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss or damage caused by his failure to comply with this Part; and

(*b*) where the collateral is consumer goods, the debtor has a right to recover in any event an amount not less than the credit service charge plus 10 per cent of the principal amount of the debt or the time price differential plus 10 per cent of the cash price.

Removal of proceedings into Supreme Court

(3) Where an application under subsection (1) is made to a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than the two days preceding the day of the return of the application, require the proceedings to be removed into the Supreme Court.

Transmission of proceedings

(4) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Removal of proceedings

(5) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court.

Reference to master

(6) Where an application under subsection (1) is made to or is removed into the Supreme Court, the court may refer any question to a master or other officer for inquiry and report.

Appeal

(7) An appeal lies to the Divisional Court from any order made under this section. R.S.O. 1970, c. 344, s. 62.

PART VI

MISCELLANEOUS

Extension of time

64. Where in this Act any time is prescribed within which or before which any act or thing must be done, a judge on application may, upon such terms and conditions and with such notice, if any, as he may order, extend such time for compliance upon being satisfied that no interest of any other person will be prejudiced by such extension, but, in the event that it later appears that any such act or thing done within the period so extended has prejudiced the rights that any person acquired before the doing of such act or thing, such act or thing shall be presumed not to have been done in conformity with this Act for the purpose of obtaining the right that such person acquired before the doing of such act or thing. R.S.O. 1970, c. 344, s. 63 (1).

Application of Act

65.—(1) Except as otherwise provided herein, this Act applies only to a security agreement made on or after the 1st day of April, 1976, and does not apply to a security agreement made before that day.

Application re prior unregistered security R.S.O. 1970, cc. 33, 45, 76

(2) Subject to section 66, a security agreement made before the 1st day of April, 1976, that required a registration in order to comply with *The Assignment of Book Debts Act, The Bills of Sale and Chattel Mortgages Act* or *The Conditional Sales Act* continues to have such force and effect as if those Acts had not been repealed if a financing statement was registered pursuant to this Act within

ninety days after the execution of the security agreement, and section 64 applies, with necessary modifications, in respect of any extension of such time. 1976, c. 39, s. 1.

Transitional provision R.S.O. 1970, cc. 33, 45, 76

66.—(1) Where a security interest was covered by an unexpired filing or registration under *The Assignment of Book Debts Act*, *The Bills of Sale and Chattel Mortgages Act* or *The Conditional Sales Act*, and in respect of which a financing statement was filed before the 1st day of April, 1976,

(*a*) the financing statement and any filed financing change statement relating thereto shall be deemed to be registered; and

(*b*) the security interest to which the financing statement relates shall be deemed to be perfected,

under this Act and, subject to this Act, the effect of the prior filing or registration is continued for the unexpired portion of the filing or registration period.

Inspection of documents

(2) Upon the request of any person and upon payment of the prescribed fee, any chattel mortgage registered under *The Bills of Sale and Chattel Mortgages Act*, any contract registered under *The Conditional Sales Act* or any assignment of book debts registered under *The Assignment of Book Debts Act* shall, subject to section 68, be provided for inspection. 1973, c. 102, s. 13.

Rules of practice

67. Unless otherwise provided by this Act or the regulations, the Rules of Practice and Procedure of the Supreme Court apply to proceedings under this Act. R.S.O. 1970, c. 344, s. 66.

Destruction of documents

68.—(1) Where,

(*a*) books, documents, records or papers have been preserved for the purposes of this Act; or

(*b*) chattel mortgages, conditional sale contracts or assignments of book debts registered under *The Assignment of Book Debts Act*, *The Bills of Sale and Chattel Morgages Act* or *The Conditional Sales Act* have been preserved.

for so long that it appears they need not be preserved any longer, the Director of Land Registration appointed under the *Registry Act* may authorize their destruction. R.S.O. 1980, c. 445

Removal from registration system

(2) The registrar may remove from the registration system information related to a financing statement or financing change statement that is no longer effective. 1973, c. 102, s. 14.

Conflict
R.S.O. 1980, c. 87

69. Where there is conflict between a provision of this Act and a provision of the *Consumer Protection Act*, the provision of the *Consumer Protection Act* prevails and, where there is conflict between a provision of this Act and a provision of any general or special Act, other than the *Consumer Protection Act*, the provision of this Act prevails. R.S.O. 1970, c. 344, s. 68.

Regulations

70. The Lieutenant Governor in council may make regulations,

(*a*) designating branch offices;

(*b*) approving the form of the seal of the registrar and each branch registrar;

(*c*) prescribing the duties of the registrar and branch registrars;

(*d*) prescribing business hours for the offices of the registration system or any of them;

(*e*) respecting the registration system;

(*f*) requiring the payment of fees and prescribing the amounts thereof;

(*g*) prescribing the portion of the fees received under this Act that shall be paid into The Personal Property Security Assurance Fund;

(*h*) governing practice and procedure applicable to proceedings under this Act;

(*i*) prescribing forms, the information to be contained in forms, the manner of recording the information and the persons who shall sign forms;

(*j*) requiring that the forms to be used shall be those provided or approved by the registrar;

(*k*) governing the time assigned to the registration of financing statements and financing change statements;

(*l*) prescribing abbreviations, expansions or symbols that may be used in a financing statement or financing

change statement or in the recording or production of information by the registrar;

(*m*) fixing the address to which financing statements and financing change statements shall be addressed when tendered by mail for registration;

(*n*) providing for the approval by the registrar of the forms to be used for the purposes of this Act, and for the withdrawal by the registrar of any such approval;

(*o*) prescribing the particulars referred to in section 46;

(*p*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 344, s. 70; 1973, c. 102, s. 15.

CHAPTER 376

Pesticides Act

1.—(1) In this Act, Interpretation

(*a*) "air" means open air not enclosed in a building, structure, machine, chimney, stack, flue or vehicle;

(*b*) "Board" means the Environmental Appeal Board referred to in Part XI of the *Environmental Protection Act*; R.S.O. 1980, c. 141

(*c*) "Committee" means the Pesticides Advisory Committee;

(*d*) "environment" means the natural environment, a building, structure, machine and vehicle, or any of them;

(*e*) "extermination" means a land extermination, structural extermination or a water extermination;

(*f*) "extermination business" means an activity or enterprise carried on for the purpose of causing an extermination or exterminations to be performed for fee or payment;

(*g*) "exterminator" means a person who, by himself or by his employees, assistants or agents, performs or enters into a contract to perform an extermination;

(*h*) "land" means surface land not enclosed in a building or structure, land covered by water and all subsoil, or any combination or part thereof;

(*i*) "land extermination" means the destruction, prevention or control in, on or over land of a pest or pests by the use of a pesticide but does not include a structural extermination, a water extermination or the destruction, prevention or control of termites;

(*j*) "licence" means a licence issued under this Act and the regulations;

(*k*) "licensee" means a person who is the holder of a licence under this Act;

(*l*) "Minister" means the Minister of the Environment;

(*m*) "Ministry" means the Ministry of the Environment;

(*n*) "natural environment" means the air, land and water, or any combination or part thereof, of the Province of Ontario;

(*o*) "operator" means a person who has the control and management of an extermination business, and "operate" has a corresponding meaning;

(*p*) "permittee" means a person who is the holder of a permit under this Act;

(*q*) "person" includes a municipality, a corporation on behalf of Her Majesty in right of Ontario, and an agent of any of them;

(*r*) "person responsible", when used with reference to a pesticide, substance or thing, means,

(i) the owner,

(ii) the person having the charge, management or control of the handling, storage, use, disposal, transportation or display, or

(iii) the person having the charge, management or control,

of the pesticide, substance or thing;

(*s*) "pest" means any injurious, noxious or troublesome plant or animal life other than man or plant or animal life on or in man and includes any injurious, noxious or troublesome organic function of a plant or animal;

(*t*) "pesticide" means any organism, substance or thing that is manufactured, represented, sold or used as a

means of directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest or of altering the growth, development or characteristics of any plant life that is not a pest and includes any organism, substance or thing registered under the *Pest Control Products Act* (Canada); R.S.C. 1970, c. P-10

(*u*) "prescribed" means prescribed by the regulations;

(*v*) "provincial officer" means a person who is designated under section 17;

(*w*) "regulations" means the regulations made under this Act;

(*x*) "structural extermination" means the destruction, prevention or control of a pest that may adversely affect a building, structure, machine, vehicle or their contents or the use or enjoyment thereof by any person by the use of a pesticide in, on or in the vicinity of the building, structure, machine or vehicle and includes the destruction, prevention or control of termites;

(*y*) "water" means surface water and ground water, or either of them;

(*z*) "water extermination" means the destruction, prevention or control in, on or over surface water of a pest by the use of a pesticide. 1973, c. 25, s. 1; 1974, c. 21, s. 1 (1); 1979, c. 79, s. 1.

Idem, Director

(2) In this Act, "the Director" means a Director appointed under section 3. 1974, c. 21, s. 1 (2).

Powers and duties of Minister

2. The Minister, for the purpose of the administration of this Act and the regulations, may,

(*a*) investigate problems relating to pesticides and the control of pests;

(*b*) conduct research relating to pesticides and the control of pests;

(c) conduct studies of the effect of pesticides and the control of pests on the quality of the environment;

(d) convene conferences and conduct seminars and educational programs relating to pesticides and the control of pests;

(e) gather, publish and disseminate information relating to pesticides and the control of pests;

(f) make grants and loans for research related to pesticides and the control of pests in such amounts and upon such terms and conditions as the regulations may prescribe;

(g) appoint committees to perform such advisory functions as the Minister considers requisite;

(h) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person relating to pesticides or the control of pests. 1973, c. 25, s. 2.

Appointment of Directors

3.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments.

Limitation of authority of Director

(2) The Minister, in an appointment pursuant to subsection (1), may limit the authority of a Director in such manner as the Minister considers necessary or advisable. 1974, c. 21, s. 2.

Prohibition

4. No person, whether acting or not acting under the authority of a licence or permit under this Act or an exemption under the regulations, shall deposit, add, emit or discharge or cause or permit the deposit, addition, emission or discharge of a pesticide or of any substance or thing containing a pesticide into the environment that,

(a) causes or is likely to cause impairment of the quality of the environment for any use that can be made of it greater than the impairment, if any, for such use that would necessarily result from the proper use of the pesticide;

(b) causes or is likely to cause injury or damage to property or to plant or animal life greater than the injury or damage, if any, that would necessarily result from the proper use of the pesticide;

(*c*) causes or is likely to cause harm or material discomfort to any person greater than the harm or material discomfort, if any, that would necessarily result from the proper use of the pesticide;

(*d*) adversely affects or is likely to affect adversely the health of any person to a greater degree than the adverse effect, if any, that would necessarily result from the proper use of the pesticide;

(*e*) impairs or is likely to impair the safety of any person to a greater degree than the impairment, if any, of the safety of any person that would necessarily result from the proper use of the pesticide; or

(*f*) renders or is likely to render, directly or indirectly, any property or plant or animal life unfit for use by man to a degree greater than the unfitness, if any, that would necessarily result from the proper use of the pesticide. 1973, c. 25, s. 3.

Prohibition as to extermination

5.—(1) No person shall engage in, perform or offer to perform an extermination except under and in accordance with a licence of a prescribed class and except by the use of a pesticide of a class and under the conditions for use prescribed for that class of licence or unless exempt under the regulations.

Licence required to operate extermination business

(2) No person shall operate an extermination business except under and in accordance with a licence of a prescribed class or unless exempt under the regulations.

Idem, assistant structural exterminator

(3) No person shall serve for a period of more than six months as an assistant to the holder of a licence to perform structural exterminations unless the person is licensed as an assistant exterminator or is exempt under the regulations.

Notice as to assistants to land exterminators or water exterminators

(4) No person shall serve for a period of more than seven days as an assistant to the holder of a licence to perform land exterminations or water exterminations unless the holder of the licence to perform the exterminations notifies the Director in writing or the person is exempt under the regulations. 1973, c. 25, s. 4.

Licence to sell, offer to sell or transfer

6. Unless exempt by the regulations, no person shall sell, offer to sell or transfer any pesticide unless the pesticide is classified by the regulations and except under and in accordance with a licence that shall be for such class and in respect of each premises on, in or from which the pesticide is or will be sold, offered for sale or transferred. 1973, c. 25, s. 5.

Where permit required

7.—(1) No person shall perform a land extermination or a structural extermination,

(*a*) by means of a pesticide;

(*b*) by means of a pesticide of a class; or

(*c*) under the conditions of use,

prescribed for the purpose of this section unless he is the holder of a permit for the land extermination or the structural extermination issued by the Director or he is exempt under the regulations.

Idem

(2) No person shall perform a water extermination unless he is the holder of a permit issued by the Director for the water extermination or he is exempt under the regulations. 1973, c. 25, s. 6.

Responsibility for acts or omissions

8. For the purpose of this Act and the regulations, every person is, with respect to any matter under this Act and the regulations, responsible for the acts or omissions of his employees and agents within the scope of their actual or apparent authority. 1973, c. 25, s. 7.

Liability insurance

9. An operator shall insure against liability or furnish a bond as provided for by the regulations. 1973, c. 25, s. 8.

Advisory Committee

10.—(1) The Committee known as the Pesticides Advisory Committee established under *The Pesticides Act*, being chapter 346 of the Revised Statutes of Ontario, 1970, and consisting of not fewer than ten members appointed by the Lieutenant Governor in Council one of whom may be designated by the Lieutenant Governor in Council as chairman and for whom the Lieutenant Governor in Council may appoint a person who is not a member as secretary, is continued.

Quorum

(2) Six members of the Committee constitute a quorum.

Functions

(3) The Committee shall,

(*a*) review annually the content and operation of this Act and the regulations and recommend changes or amendments therein to the Minister;

(*b*) inquire into and consider any matter the Committee considers advisable concerning pesticides and the control of pests, and any matter concerning pesticides and the control of pests referred to it by the Minister, and report thereon to the Minister;

(*c*) review publications of the Government of Ontario respecting pesticides and the control of pests, and report thereon to the Minister; and

(*d*) perform such other functions as the regulations prescribe. 1973, c. 25, s. 9.

Issuance of licence or permit

11.—(1) Subject to subsection (2), the Director shall issue or renew a licence under section 5 or 6, and subject to subsection (3), the Director shall issue a permit under section 7 to any person who applies for the licence or permit, as the case may be, in accordance with the regulations and who meets the requirements of this Act and the regulations for the particular class of licence or for the permit applied for and who pays the fee prescribed for the licence or permit.

Revocation and refusal of licence

(2) Subject to section 13, the Director may refuse to issue or renew a licence or may suspend or revoke a licence where, in the opinion of the Director,

(*a*) the applicant or licensee is in contravention of this Act or the regulations;

(*b*) the licensee is in breach of any term or condition of the licence;

(*c*) the applicant or licensee or, where the applicant or licensee is a corporation, its officers or directors, is or are not competent to carry on the activity that would be or is authorized by the licence;

(*d*) the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of any of its officers or directors, affords reasonable grounds for belief that the activity that would be or is authorized by the licence will not be carried on with honesty and integrity;

(*e*) the applicant or licensee does not possess or will not have available all premises, facilities and equipment necessary to carry on the activity authorized by the licence in accordance with this Act, the regulations and the licence;

(*f*) the applicant or licensee is not in a position to observe or carry out the provisions of this Act, the regulations and the licence;

(*g*) the licensee has been grossly negligent in carrying on the activity that is authorized by the licence; or

(*h*) the licensee has fraudulently misrepresented his services in performing an extermination or in carrying on an extermination business.

Revocation and refusal of permit

(3) The Director may refuse to issue or may cancel a permit, may impose terms and conditions in issuing or after issuing a permit and may alter the terms and conditions of a permit that has been issued where the Director is of the opinion, upon reasonable and probable grounds, that,

(*a*) the applicant or permittee is not competent to perform the extermination for which the permit is required;

(*b*) the applicant or permittee does not possess or will not have available all facilities and equipment necessary to perform the extermination in accordance with this Act, the regulations and the permit;

(*c*) there is or is likely to be danger to the health or safety of any person;

(*d*) there is or is likely to be harm or material discomfort to any person;

(*e*) there is or is likely to be impairment of the quality of the environment for any use that is being or is likely to be made of it;

(*f*) there is or is likely to be injury or damage to any property or to plant or animal life;

(*g*) any property or plant or animal life is or is likely to be rendered, directly or indirectly, unfit for use by man;

(*h*) a different method of control or extermination will or will likely be substantially as effective as the proposed extermination for which a permit is required under section 7 and will or will likely cause less impairment of the environment, if any, for any use that is being or is likely to be made of it or less harm to or adverse effect, if any, on any plant or animal life, man or property; or

(*i*) the use of the pesticide will not be or will not likely be effective or necessary to carry out the extermination. 1973, c. 25, s. 10.

Term of licence

12. A licence expires on the 15th day of February in the year next following the year in which it was issued. 1973, c. 25, s. 11.

Proposal to refuse to issue licence, etc.

13.—(1) Where the Director proposes,

(*a*) to refuse to issue or renew a licence;

(*b*) to suspend or revoke a licence; or

(*c*) to make, amend or vary a control order,

he shall serve notice of his proposal, together with written reasons therefor, on the applicant, licensee or person to whom the Director intends to direct the control order.

Notice

(2) A notice under subsection (1) shall inform the applicant, licensee or person to whom the Director intends to direct the control order that he is entitled to a hearing by the Board if he mails or delivers to the Director and the Board, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Powers of Director where no hearing

(3) Where an applicant, licensee or person to whom the Director intends to direct the control order does not require a hearing by the Board in accordance with subsection (2), the Director may carry out the proposal stated in his notice under subsection (1).

Powers of Board where hearing

(4) Where an applicant, licensee or person to whom the Director intends to direct the control order requires a hearing by the Board in accordance with subsection (2), the Board shall appoint a time and place for and hold the hearing and may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

Extension of time for requiring hearing

(5) The Board may extend the time for the giving of notice requiring a hearing by an applicant, licensee or person to whom the Director intends to direct a control order referred to in subsection (1), either before or after the expiration of such

time, where it is satisfied that there are reasonable grounds for applying for the extension and that there are *prima facie* grounds for granting relief to the applicant, licensee or person to whom the Director intends to direct the control order referred to in subsection (1), and the Board may give such directions as it considers proper consequent upon the extension.

Continuation of licence pending renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.

Emergency notice

(7) Notwithstanding subsection (6), where the Director is of the opinion that an emergency exists by reason of,

(*a*) danger to the safety or health of any person;

(*b*) impairment or immediate risk of impairment of the environment for any use that is being or is likely to be made of it;

(*c*) injury or damage or immediate risk of injury or damage to property, or to plant or animal life;

(*d*) the rendering or immediate risk of rendering, directly or indirectly, of any property or plant or animal life unfit for use by man; or

(*e*) a failure by a licensee to have in force insurance against liability or to furnish or have in force a bond as required by section 9,

the Director, by a notice to a licensee or to a person to whom the Director intends to direct a control order, together with written reasons therefor, may refuse to renew, suspend or revoke a licence or make, amend or vary a control order and, notwithstanding that the licensee or person to whom the control order is directed requires a hearing by the Board, the licence shall not be deemed to continue or the suspension, revocation or the making, amendment or variation of the control order is effective upon the service of the notice, as the case requires.

(8) Where the Director refuses to issue or cancels a permit or imposes or alters a term or condition in a permit that has been issued, he shall forthwith thereafter serve or cause to be served notice of his decision, upon the applicant or permittee, together with written reasons therefor. Where permit cancelled or terms or conditions imposed or altered

(9) Where the Director issues a permit subject to a term or condition, refuses to issue or cancels a permit or imposes or alters a term or condition in a permit that has been issued and the applicant or permittee makes submissions to the Director, the Director, within three days after receiving the submissions, shall reconsider and vary, rescind or confirm his decision and shall serve or cause to be served notice of such variance, rescission or confirmation upon the applicant or permittee together with written reasons therefor and where the Director varies or rescinds his decision, he shall take such action as may be necessary to make the variation or rescission effective. Reconsideration

(10) A permit issued by the Director subject to a term or condition and a notice under subsection (8) shall inform the applicant or permittee that he is entitled to make submissions to the Director, in person or by an agent and by telephone or otherwise and that he is entitled to a hearing by the Board if he mails or delivers to the Director and the Board, within fifteen days after the notice under subsection (9) is served on him, notice in writing requiring a hearing and he may so make such submissions and so require such a hearing. Notice

(11) Notwithstanding the making of submissions by an applicant or a permittee under subsection (10), the issuance of a permit subject to a term or condition or the cancellation of a permit or the imposition or alteration of a term or condition in a permit that has been issued by the Director is effective upon the issuance of the permit or upon the service of the notice under subsection (8). Effect of service of notice

(12) Subsections (4) and (5) apply with necessary modifications to a hearing by the Board required under subsection (10). 1973, c. 25, s. 13. Application of subss. (4), (5)

14.—(1) The Director, the applicant, licensee, permittee or person to whom the Director intends to direct a control order who has required a hearing and such other persons as the Board may specify are parties to proceedings before the Board under section 13. Parties

(2) Notice of a hearing under section 13 shall afford to the applicant, licensee, permittee or person to whom the Director intends to direct a control order a reasonable Notice of hearing

opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence or permit or to take such action as will preclude the necessity for making, amending or varying the control order.

Examination of documentary evidence

(3) An applicant, licensee, permittee or person to whom the Director intends to direct a control order who is a party to proceedings under section 13 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

R.S.O. 1980, c. 484

(6) The findings of fact of the Board following upon a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Only members at hearing to participate in decision

(7) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence

(8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. 1973, c. 25, s. 14.

Appeal to court

15.—(1) Any party to proceedings before the Board may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court.

(2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under subsection (1). Minister entitled to be heard

(4) Any party to a hearing before the Board, within thirty days after receipt of the decision of the Board or within thirty days after final disposition of an appeal, if any, under subsection (1), may appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Board as to the matter in appeal as he considers in the public interest. 1973, c. 25, s. 15. Appeal to Minister

16.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against an employee of the Ministry, a member of the Board or the Committee or a Crown employee within the meaning of the *Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Ministry, or such member or provincial officer for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. 1974, c. 21, s. 3. Protection from personal liability; R.S.O. 1980, c. 418

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1973, c. 25, s. 16 (2). Crown not relieved of liability; R.S.O. 1980, c. 393

17.—(1) The Minister may designate in writing one or more officers or employees of the Ministry or other persons as provincial officers for the purposes of this Act and the regulations. 1973, c. 25, s. 17 (1). Provincial officers

(2) For the purpose of the administration of this Act and the regulations, a provincial officer may, from time to time Powers of provincial officer

and upon production of his designation, enter at any reasonable time any building, structure, machine, vehicle, land, water or air and make or require to be made such surveys, examinations, investigations, tests and inquiries, including examinations of books, records and documents, as he considers necessary, and may make, take and remove or may require to be made, taken or removed samples, copies or extracts. 1973, c. 25, s. 17 (2); 1974, c. 21, s. 4.

Order authorizing entry

(3) Where a justice of the peace is satisfied, upon an *ex parte* application by a provincial officer, that there is reasonable ground for believing that it is necessary to enter any building, structure, machine, vehicle, land, water or air for the administration of this Act or the regulations, the justice of the peace may issue an order authorizing a provincial officer to enter therein or thereon and to make or require to be made such surveys, examinations, investigations, tests and inquiries and to take the other actions that are mentioned in subsection (2), but every such entry, survey, examination, investigation, test, inquiry and other such action shall be made or taken between sunrise and sunset unless the justice of the peace authorizes the provincial officer, by the order, to so act at another time.

Information

(4) Every person responsible for a pesticide or for a substance or thing containing a pesticide that is the subject of an investigation by a provincial officer, and every person who assists such a person, shall furnish such information as the provincial officer requires for the purpose of the investigation.

Obstruction of provincial officer

(5) No person who is responsible for a pesticide or for a substance or thing containing a pesticide or who assists such a person shall hinder or obstruct a provincial officer in the lawful performance of his duties or furnish a provincial officer with false information. 1973, c. 25, s. 17 (3-5).

Calling for assistance of member of police force

18. Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render such assistance. 1973, c. 25, s. 18.

Matters confidential

19. Except as to information in respect of,

(*a*) impairment or potential impairment of the quality of the environment for any use that can be made of it; or

(*b*) harm or potential harm to or an adverse effect on any person, living thing or any property,

arising from or likely to arise from the handling, storage, use, disposal, transportation or display of a pesticide or a substance or thing containing a pesticide, every provincial officer shall preserve secrecy in respect of all matters that come to his knowledge in the course of an examination, test or inquiry of or into any matter under this Act or the regulations and shall not communicate any such matter to any person except,

(*c*) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;

(*d*) to his counsel; or

(*e*) with the consent of the person who is responsible for the handling, storage, use, disposal, transportation or display of the pesticide, substance or thing. 1973, c. 25, s. 19.

Stop order

20.—(1) Where the Director or a provincial officer is of the opinion, upon reasonable and probable grounds, that an emergency exists by reason of,

(*a*) danger to the health or safety of any person;

(*b*) impairment or immediate risk of impairment of the quality of the environment for any use that is being or is likely to be made of it;

(*c*) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life; or

(*d*) the rendering or the immediate risk of rendering, directly or indirectly, any property or plant or animal life unfit for use by man,

consequent upon the handling, storage, use, disposal, transportation or display of a pesticide or a substance or thing containing a pesticide, the Director or provincial officer, as the case may be, may make an oral or written stop order directed to the person responsible for the pesticide or the substance or thing containing the pesticide ordering such person to stop immediately the handling, storage, use, disposal, transportation or display of the pesticide or the substance or thing containing the pesticide either permanently or for a specific period of time.

Immediate appeal

(2) A person who is affected by a stop order made by a provincial officer under subsection (1) may appeal therefrom in person or by an agent and by telephone or otherwise to the Director and the Director, after receiving the submissions of the person and of the provincial officer, shall vary, rescind or confirm the stop order of the provincial officer.

Written reasons for order

(3) Where the Director makes a stop order or varies or confirms a stop order under subsection (2), the Director shall forthwith thereafter serve or cause to be served a written copy of the stop order or a written copy of the stop order as varied or confirmed, as the case requires, together with written reasons therefor, upon the person to whom the stop order or the stop order as varied or confirmed is directed.

Notice

(4) A stop order, or a stop order as varied or confirmed, under subsection (3) shall inform the person to whom it is directed that he is entitled to a hearing by the Board if he mails or delivers to the Director and the Board, within fifteen days after a copy of the stop order, or the stop order as varied or confirmed, under subsection (3), is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Effect of stop order

(5) Notwithstanding that an appeal is taken against a stop order, the stop order is effective at and from the time it is communicated to the person to whom it is directed until confirmed, varied or rescinded on appeal and such person shall comply with the stop order immediately.

Appeal to Board

(6) Where the Director has made a stop order or has varied or confirmed upon appeal to the Director a stop order made by a provincial officer, any person to whom the order is directed may, by written notice mailed to or served upon the Director and the Board within fifteen days after service upon him of a copy of the stop order or of the stop order as varied or confirmed, as the case requires, require a hearing by the Board.

Powers of Board where hearing

(7) Where a person to whom a stop order is directed requires a hearing by the Board in accordance with subsection (6), the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order of the Director and for such purposes the Board may substitute its opinion for that of the Director.

Parties

(8) The Director, the person who has required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this section.

(9) Subsection 13 (5), subsections 14 (2), (3), (4), (5), (6), (7) and (8) and section 15 apply with necessary modifications to proceedings under this section. Application of ss. 13 (5), 14 (2-8) and 15

(10) The Director, by an order, may rescind a stop order and in such case shall serve or cause to be served a copy of the rescinding order upon the person to whom the stop order was directed. 1973, c. 25, s. 20. Revocation of stop order

21.—(1) Where the handling, storage, use, disposal, transportation or display of a pesticide or a substance or thing containing a pesticide, Control order

(*a*) causes or is likely to cause impairment of the quality of the environment for any use that is being or is likely to be made of it;

(*b*) causes or is likely to cause injury or damage to property or to plant or animal life;

(*c*) causes or is likely to cause harm or material discomfort to any person;

(*d*) adversely affects or is likely to affect adversely the health of any person;

(*e*) impairs or is likely to impair the safety of any person;

(*f*) renders or is likely to render, directly or indirectly, any property or plant or animal life unfit for use by man,

the Director, subject to section 13, may make a control order directed to the person responsible for the pesticide or the substance or thing containing the pesticide.

(2) The Director, in a control order, may order the person to whom the order is directed to, Content of control order

(*a*) limit or control the rate of deposit, addition, emission or discharge of a pesticide or a substance or thing containing a pesticide into the environment in accordance with the directions set out in the order;

(*b*) stop the deposit, addition, emission or discharge of a pesticide or a substance or thing containing a pesticide into the environment,

(i) permanently,

(ii) for a specified period of time, or

(iii) in the circumstances set out in the order; and

(*c*) comply with any directions set out in the order relating to the manner in which a pesticide or a substance or thing containing a pesticide or the container of either of them may be handled, stored, used, disposed of, transported or displayed.

Amendment of control order

(3) The Director, under any of the circumstances set out in subsection (1) and in accordance with subsection (2), by a further order, may amend or vary a control order and sections 13, 14 and 15 apply with necessary modifications.

Revocation of control order

(4) The Director, by an order, may rescind a control order and in such case shall serve or cause to be served a copy of the rescinding order upon the person to whom the control order was directed. 1973, c. 25, s. 21.

When Director to be notified

22. Every person who deposits, adds, emits or discharges a pesticide or a substance or thing containing a pesticide in or into the environment out of the normal course of events that,

(*a*) causes or is likely to cause impairment of the quality of the environment for any use that can be made of it;

(*b*) causes or is likely to cause injury or damage to property or to plant or animal life;

(*c*) causes or is likely to cause harm or material discomfort to any person;

(*d*) adversely affects or is likely to adversely affect the health of any person;

(*e*) impairs or is likely to impair the safety of any person; or

(*f*) renders or is likely to render, directly or indirectly, any property or plant or animal life unfit for use by man,

shall forthwith notify the Director. 1973, c. 25, s. 22.

Minister may order repair of damage

23.—(1) Where any person deposits, adds, emits or discharges or causes or permits the deposit, addition, emission or discharge of a pesticide or a substance or thing containing a

pesticide that causes or is likely to cause injury or damage to or impairment of,

(*a*) the quality of the environment for any use that is being or is likely to be made of it;

(*b*) any property or water;

(*c*) plant or animal life; or

(*d*) a person,

the Minister, where he is of the opinion that it is in the public interest to do so, may order the person responsible for the pesticide or the substance or thing containing the pesticide to do all things and take all steps within such time or times as may be specified in the order for the purpose of preventing or repairing, as the case requires, such injury or damage or impairment or to restore such quality.

Cleaning and decontamination

(2) Every person responsible for a pesticide or a substance or thing containing a pesticide shall take such measures and do such things within such time or times with respect to the cleaning and decontamination of the environment, or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder as may be prescribed.

Idem

(3) No person shall use the environment or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder unless the cleaning and decontamination thereof has been completed in the prescribed manner or has been approved by the Director in writing. 1973, c. 25, s. 23.

Order binds successor or assignee

24.—(1) An order of the Minister, the Director or a provincial officer under this Act is binding upon the successor or assignee of the person to whom it is directed.

Index record

(2) The Ministry shall maintain an alphabetical index record of the names of all persons to whom orders are directed under this Act.

Removal of name from index record

(3) When an order has expired or is rescinded, the Ministry shall remove from the index record the name of the person to whom the order is directed.

Search of index record

(4) The Ministry shall, upon the request of any person, make a search of the index record and inform the person

making the request as to whether or not the name of a particular person appears in the index record and shall permit inspection of any order relating to that person. 1973, c. 25, s. 24.

The Crown

25. This Act binds the Crown. 1973, c. 25, s. 25.

Licences or permits not transferable

26. A licence or a permit under this Act is not transferable. 1973, c. 25, s. 26.

Exemption

27. Where, in the opinion of the Director, it is in the public interest to do so, the Director may exempt an applicant for a licence issued by the Director under section 6 or the holder of such a licence from any provision of the regulations and issue a licence to the applicant or modify the licence of the licensee, as the case may be, upon such terms and conditions, or alter or revoke the terms and conditions, as the Director considers necessary. 1973, c. 25, s. 27.

Regulations

28. The Lieutenant Governor in Council may make regulations,

1. prescribing classes of licences and the requirements for licences and renewals;

2. exempting any person or class of persons from this Act or the regulations or any provision thereof and prescribing terms and conditions attaching to any such exemption;

3. providing for the issue and renewal of licences and prescribing fees therefor;

4. providing for the issue of permits, prescribing fees therefor and the requirements therefor;

5. prescribing terms and conditions with respect to sales, offers to sell, transfers or premises in, on or from which sales, offers to sell or transfers of a pesticide are or will be made that shall attach to any class of licence;

6. providing for the examination of applicants for permits and licences and renewals of licences, and prescribing fees for such examinations;

7. providing for the appointment of examiners for applicants for licences and permits, the period for which such appointments may be made and the remuneration of examiners;

8. requiring applicants for licences to undergo medical examinations;

9. prescribing the procedures, conditions and notices for exterminations and for the airing out of buildings, structures and vehicles;

10. fixing the amount and type of insurance or bond that shall be carried or furnished by operators and prescribing the form, requirements and terms thereof;

11. prescribing pesticides, classes of pesticides and conditions of use for the purpose of section 7;

12. prescribing that a type or class of structural extermination may be deemed a land extermination and prescribing that a type or class of land extermination may be deemed a structural extermination for the purpose of this Act and the regulations;

13. permitting any class of operator or exterminator to perform or to undertake to perform any extermination for which the members of the class are not licensed and prescribing the conditions that shall attach to the permission;

14. exempting any machine, apparatus, equipment, or class thereof, from this Act or the regulations, or any provision thereof;

15. exempting any type or class of building, vehicle or structure from this Act or the regulations or any provision thereof;

16. excluding any land or water from the operation of this Act or the regulations or any provision thereof;

17. regulating or prohibiting the installation, operation, maintenance and use of any machine, apparatus or equipment used for extermination;

18. governing the signs, marking or other identification of vehicles or machines used in exterminations;

19. regulating the construction of any enclosed space or vault in which movable property may be placed during the periods of extermination and airing out;

20. prescribing functions, practices and procedures, tenure of office and remuneration of the Committee;

21. prescribing forms and providing for their use for the purposes of this Act;

22. governing, regulating or prohibiting the use, handling, storage, display or disposal of pesticides;

23. classifying pesticides and prohibiting or regulating the sale, offering for sale or transfer of any pesticide or class of pesticides;

24. prohibiting the holders of any class of licence from using any designated pesticide or class of pesticides;

25. regulating the type of containers and the labelling of containers for pesticides, other than the containers in which pesticides are sold or offered for sale;

26. regulating the disposal of containers of pesticides;

27. prescribing the records to be kept and returns to be made by licensees;

28. exempting any plant or animal life, organism, substance or thing or any class of any of them or any quantity or concentration of any organism or substance from this Act or the regulations or any provision thereof;

29. respecting premises on, in or from which any pesticide or class of pesticide is sold, offered for sale or transferred;

30. regulating and controlling, for the purpose of preventing or reducing the contamination by pesticides of the environment, property, plant or animal life, or of any person, the transportation of any designated pesticide or class of pesticides by any vehicle operated on any highway or road or the transportation of any designated pesticide or class of pesticides together with any commodity or class of commodities by a vehicle operated on any highway or road;

31. prohibiting the transportation of any designated pesticide or class of pesticides together with any commodity or class of commodity by a vehicle operated on any highway or road;

32. prescribing the records to be kept by persons responsible for the transportation of any designated pesticide or class of pesticides by a vehicle operated on a highway or road;

33. requiring, regulating or prohibiting the removal or disposal of any substance or thing that has come into contact with any pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder;

34. requiring and prescribing measures to be taken and things to be done with respect to the cleaning and decontamination of the environment or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder and the time or times within which such measures shall be taken and things done. 1973, c. 25, s. 28; 1979, c. 79, s. 3.

Scope of regulations

29.—(1) Any regulation may be general or particular in its application and may be limited as to time or place or both.

Adoption of codes in regulations

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted. 1973, c. 25, s. 29.

Fees for copies

30. The Minister may charge and collect for payment to the Treasurer of Ontario such fees as the Minister considers proper for all copies of pamphlets, brochures, documents, maps, plans or drawings supplied by the Ministry. 1973, c. 25, s. 30; 1974, c. 21, s. 5.

Service

31.—(1) Any notice, order, decision or other document required to be given, served or delivered under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by registered mail addressed to the person to whom it is required to be given, served or delivered at the latest address for service appearing on the records of the Ministry or, where there is no address for service so appearing, at the address, if any, last known to the Director.

When service deemed made

(2) Where service is made by registered mail in accordance with subsection (1), the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith,

through absence, accident, illness or other cause beyond his control, receive the notice, order, decision or other document until a later date. 1973, c. 25, s. 31.

Enforcement of performance of things required to be done

32. Where the Minister or the Director has authority to order or require that any matter or thing be done, the Minister may order that, in default of its being done by the person ordered or required to do it, such matter or thing shall be done at the expense of such person, and the Minister may recover the cost of doing it, with costs, by action in a court of competent jurisdiction as a debt due to the Crown by such person. 1973, c. 25, s. 32.

False information

33. No person shall knowingly give false information in any application, return or statement made to the Minister, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations. 1974, c. 21, s. 6.

Offence

34. Every person, whether as principal or employer or as agent or employee of either of them, who contravenes any provision of this Act or the regulations or fails to comply with an order or a term or condition of a licence or permit made or issued under this Act is guilty of an offence and on conviction is liable for the first offence to a fine of not more than $5,000 for every day or part thereof upon which the offence occurs or continues and for a second or subsequent offence to a fine of not more than $10,000 for every day or part thereof upon which the offence occurs or continues. 1973, c. 25, s. 34.

Multiple information

35. An information or certificate of offence in respect of any matter under this Act may be for one or more offences and no information, certificate of offence, summons, offence notice, warrant, conviction or other proceeding in any prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. 1973, c. 25, s. 35.

Certificates, etc., as evidence

36. In any prosecution, proceeding or hearing under this Act or the regulations, the production of,

(*a*) a certificate or report of an analyst in the employ of the Crown in right of Ontario designated by the Minister as to the analysis, ingredients, quality, quantity or temperature of any material, whether solid, liquid or gas or any combination of them; or

(*b*) a notice, licence, permit, order, certificate, consent or approval purporting to be signed by the Minister or the Director, or any certified copy thereof,

is *prima facie* evidence of the facts stated therein and of the authority of the person making the report, notice, licence, permit, order, certificate, consent or approval without any proof of appointment or signature. 1973, c. 25, s. 36.

Proceedings to prohibit continuation or repetition of contravention

37.—(1) Where any provision of this Act or the regulations or any direction, order, licence or permit made, served, delivered or issued by the Minister or the Director under this Act is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1973, c. 25, s. 37, *revised*.

Conflict

38. Where a conflict appears between any provision of this Act or the regulations and any other Act or regulation in a matter related to pesticides and the control of pests, the provision of this Act or the regulations shall prevail. 1973, c. 25, s. 38.

CHAPTER 377

Petroleum Resources Act

1. In this Act, Interpretation

1. "Board" means the Ontario Energy Board;

2. "gas" means natural gas;

3. "inspector" means an inspector appointed for the purposes of this Act and the regulations, and includes a chief inspector;

4. "licence" means a licence issued under this Act;

5. "Minister" means the Minister of Natural Resources;

6. "Ministry" means the Ministry of Natural Resources;

7. "oil" means crude oil, and includes any hydrocarbon that can be recovered in liquid form from a pool through a well;

8. "operator",

   i. when used in respect of any operations carried on for the purpose of drilling or plugging a well, means a person who has the right as lessee, sub-lessee, assignee or owner to carry on the drilling or plugging operations, and the person who has the control or management of such operations, and

   ii. when used in respect of a well, means a person who has the right as lessee, sub-lessee, assignee or owner to the production from the well, and the person who has the control and management thereof, provided that such person either drilled or produced the well;

9. "permit" means a permit issued under this Act;

10. "pool" means an underground accumulation of oil or gas or both, separated or appearing to be separated from any other such underground accumulation;

11. "prescribed" means prescribed by a regulation;

12. "regulation" means a regulation made under this Act;

13. "spacing unit" means a surface area established by a regulation for the purpose of drilling for, or the production of, oil or gas, and includes the subsurface specified by the regulation;

14. "well" means a hole drilled into a geological formation of Cambrian or more recent age, except a hole where no oil or gas is encountered that is drilled for the production of fresh water;

15. "work" means a pipe line or a well and every part thereof and adjunct thereto that is used in the drilling for or the production or storage of oil or gas. 1971, c. 94, s. 1; 1972, c. 4, s. 12.

Appointment of inspectors R.S.O. 1980, c. 418

2.—(1) One or more chief inspectors and inspectors may be appointed under the *Public Service Act* for the purpose of this Act and the regulations.

Certificate of appointment and identification

(2) The Minister shall issue to every inspector a certificate of his appointment and identification.

Validity of certificate

(3) A certificate purporting to bear the signature of the Minister shall be deemed to have been signed by the Minister.

Production of certificate

(4) Every inspector, in the execution of any of his duties under this Act and the regulations, shall produce his certificate of appointment upon request. 1971, c. 94, s. 2.

Powers of inspector

3.—(1) An inspector may, for the purpose of carrying out his duties under this Act and the regulations,

(*a*) subject to subsection (2), enter in or upon any premises at any time without warrant;

(*b*) take up or use at any time any work or part thereof;

(*c*) require the production of any drawing or specification of a work or any part thereof or any licence, permit, record or report and may inspect, and make copies of, the same and may require information from any person concerning any matter related to a work or part thereof or the handling or use thereof;

(*d*) be accompanied by any person at the request of the inspector who has special or expert knowledge of any matter in relation to a work or a part thereof or the handling or use thereof;

(*e*) alone, or in conjunction with such other persons possessing special or expert knowledge, make such examinations, tests or inquiries as may be necessary to ascertain whether this Act and the regulations are being complied with and for such purpose take or remove any material or substance subject to the operator or user being notified thereof.

Warrant

(2) An inspector shall not enter any room or place actually being used as a dwelling where the occupier refuses entry except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*. 1971, c. 94, s. 3. R.S.O. 1980, c. 400

Obstruction of inspector

4.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act and the regulations.

Assistance of inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and duties under this Act and the regulations.

Refusal to produce

(3) No person shall neglect or refuse to produce a licence, permit, drawing, specification, record or report as required by an inspector under clause 3 (1) (*c*).

False information

(4) No person shall furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act and the regulations. 1971, c. 94, s. 4.

Information confidential

5.—(1) An inspector shall not publish, disclose or communicate to any person any information, record, report or statement acquired, furnished, obtained, made or received under the

powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act and the regulations.

Compellability in civil suit

(2) An inspector is not a compellable witness in a civil suit or proceeding respecting any information, record, report, statement, or test acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations.

Exception

(3) The Minister may disclose or publish information, material, statements or result of a test acquired, furnished, obtained or made under the powers conferred under this Act and the regulations. 1971, c. 94, s. 5.

Liability of inspector

6.—(1) No action or other proceeding for damages lies or shall be instituted against an inspector for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

Liability of Crown R.S.O. 1980, c. 393

(2) Subsection (1) does not, by reasons of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act* relieve the Crown of liability in respect of a tort committed by an inspector to which it would otherwise be subject and the Crown is liable under that Act for any such tort in like manner as if subsection (1) had not been enacted. 1971, c. 94, s. 6.

Directions by inspectors where non-compliance

7.—(1) Where an inspector finds that any provision of this Act or the regulations is being contravened, he may give to the person whom he believes to be the contravener, his supervisor or foreman or any of them an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such time as he specifies.

Idem

(2) Where an inspector gives an order under this section, the order shall contain sufficient information to specify the nature of the contravention.

Affixing tags

(3) Where an inspector gives an order under this section, he,

(*a*) may order that the work shall not be used until the order is complied with;

(*b*) may affix a tag in the prescribed form to the work and no person, except the inspector, shall remove the tag; and

(*c*) shall notify in writing the operator, owner or person in charge of the work of the affixing of the tag.

(4) No person shall knowingly remove oil or gas from or supply oil or gas to a work to which a tag is attached. Use of tagged work

(5) No person shall use a work to which a tag is attached. Idem

(6) Any person who considers himself aggrieved by a decision or order of an inspector made under this section may appeal to a chief inspector who shall hear and dispose of the appeal as promptly as is practicable but the bringing of such appeal does not affect the operation of the order appealed from pending disposition of the appeal. Appeal from inspector

(7) An appeal to a chief inspector may be made in writing or orally by telephone, but the chief inspector so notified may require the grounds for appeal to be in writing before the appeal is heard. Oral or written

(8) On appeal under this section, the chief inspector notified may substitute his findings or opinion for those of the inspector who made the decision or order appealed from and may rescind or affirm the decision or order or make a new decision or order in substitution therefor and the decision or order of the chief inspector shall stand in place of and have the like effect under this Act as the decision or order of the inspector. 1971, c. 94, s. 7. Powers of chief inspector

8.—(1) No person shall, No exploring, leasing or producing without licence

(*a*) conduct geophysical or geochemical exploration for oil or gas; or

(*b*) lease oil or gas rights except from the Crown; or

(*c*) produce oil or gas for sale,

unless he is the holder of a licence for such purpose.

(2) Failure to comply with subsection (1) does not affect the validity of any contract. 1971, c. 94, s. 8. Contracts not affected

9. No person shall operate a machine for boring, drilling, deepening or plugging wells unless the machine is licensed. 1971, c. 94, s. 9. No machine to be operated without licence

10. No person shall bore, drill or deepen a well unless he is the holder of a permit for such purpose. 1971, c. 94, s. 10. No well to be bored, etc., without permit

11.—(1) No person shall repressure, maintain pressure in or flood any geological formation by the injection of oil, gas, water or other substance unless he is the holder of a permit for such purpose. Permit required to inject gas, etc.

Exception

(2) Subsection (1) does not apply to a person who injects gas for storage in a designated gas storage area. 1971, c. 94, s. 11 (1, 2).

Referral of application for permits to Board

(3) The Minister may refer to the Board for a report any application for a permit under subsection (1) if in his opinion the circumstances so require, but he shall so refer it if the point of injection is within 1.6 kilometres of a designated gas storage area. 1971, c. 94, s. 11 (3); 1978, c. 87, s. 28.

Hearing

(4) Where an application is referred to the Board under this section, the Board shall hold a hearing before reporting to the Minister,

(*a*) if the point of injection is within 1.6 kilometres of a designated gas storage area; or

(*b*) if, in the opinion of the Board, the circumstances of the case so require. 1971, c. 94, s. 11 (4); 1978, c. 87, s. 28.

Responsibility for compliance with Act

12. Every operator shall take every precaution reasonable in the circumstances to ensure that his employees and agents comply with this Act and the regulations. 1971, c. 94, s. 12.

Grant of licence, etc.
R.S.O. 1980, c. 332

13.—(1) Subject to section 23 of the *Ontario Energy Board Act*, the Minister may, in his discretion, with or without an examination of the applicant, grant a licence or permit, and he may, in so doing, impose such terms and conditions, whether of a pecuniary nature or otherwise, and such duties and liabilities as he in his discretion considers proper, but before granting a licence or permit he may, and if requested by the applicant, he shall refer the matter to the Board, in which case the Board shall hold a hearing and report to him thereon.

Renewal of licence, etc.

(2) The Minister may grant a renewal of a licence or permit in whole or in part, and he may, in granting a renewal of a licence or permit, impose such terms and conditions, whether of a pecuniary nature or otherwise, and such duties and liabilities as he in his discretion considers proper, but if, in refusing to grant, or in granting such a renewal, he imposes any term or condition that was not previously imposed, he shall, if requested by the applicant, refer the matter to the Board, in which case the Board shall hold a hearing and report to him thereon. 1971, c. 94, s. 13.

Renewal, suspension of licence, etc.

14.—(1) Where a person contravenes any provision of section 19, the Minister may refuse to grant a licence or permit, the renewal of any of them, or suspend or cancel a licence or permit or may, in granting or renewing a licence or permit, impose such terms and conditions as he considers proper but before doing so he may refer the matter to the Board, in which case the Board shall report to him thereon.

(2) Where the Minister does not refer the matter to the Board, any person aggrieved thereby may apply to the Board for a hearing, in which case the Board shall hold a hearing and report thereon to the Minister. 1971, c. 94, s. 14. Appeal to Board

15. Where a hearing is held pursuant to section 13 or 14, the Board shall send to each of the parties a copy of its report to the Minister within ten days after submitting it to the Minister. 1971, c. 94, s. 15. Copy of report to be sent to parties

16. Where, following a hearing and report by the Board pursuant to section 13 or 14, the Minister refuses to grant or renew a licence or permit, or imposes terms and conditions on a licence or permit, upon the petition of any party or person interested, filed with the Clerk of the Executive Council within sixty days after the date of the Minister's decision, the Lieutenant Governor in Council may, Lieutenant Governor in Council may confirm, vary or rescind decision of Minister

(*a*) confirm, vary or rescind the whole or any part of such decision; or

(*b*) require the Board to hold a new hearing on the matter and report to the Minister thereon,

and the decision of the Minister after the hearing and report ordered under clause (*b*) is not subject to petition under this section. 1971, c. 94, s. 16.

17.—(1) The Lieutenant Governor in Council may make regulations, Drilling and production regulations

(*a*) for the conservation of oil or gas;

(*b*) prescribing areas where drilling for oil or gas is prohibited;

(*c*) prescribing the terms and conditions of oil and gas production leases and gas storage leases or any part thereof, excluding those relating to Crown lands, and providing for the making of statements or reports thereon;

(*d*) regulating the location and spacing of wells;

(*e*) providing for the establishment and designation of spacing units and regulating the location of wells in spacing units and requiring the joining of the various interests within a spacing unit or pool;

(*f*) prescribing the methods, equipment and materials to be used in boring, drilling, completing, servicing, plugging or operating wells;

(g) requiring operators to preserve and furnish to the Ministry drilling and production samples and cores;

(h) requiring operators to furnish to the Ministry reports, returns and other information;

(i) requiring dry or unplugged wells to be plugged or replugged, and prescribing the methods, equipment and materials to be used in plugging or replugging wells;

(j) regulating the use of wells and the use of the subsurface for the disposal of brine produced in association with oil and gas drilling and production operations. 1971, c. 94, s. 17 (1); 1972, c. 1, s. 1.

General regulations

(2) The Lieutenant Governor in Council may make regulations,

(a) providing for the issue of licences and permits;

(b) prescribing classes of licences and permits, and prescribing standard terms and conditions upon which licences and permits may be issued;

(c) prescribing the fee payable for any licence or permit;

(d) prescribing forms and tags and providing for their use;

(e) requiring and providing for the bonding or insuring of holders of licences or permits;

(f) requiring and providing for guarantees or other security by bond or other means that works commenced under licence or permit will be completed in accordance with this Act and the regulations;

(g) respecting the completion, correction or removal of works by an operator, or by the Minister upon the operator's default, and respecting the recovery of costs thereby incurred;

(h) providing for the Minister to take possession of a work not complying with this Act and the regulations and to take such measures as are necessary to make the work comply with this Act and the regulations, and to recover any resulting expenses by action in a court of competent jurisdiction or by the sale of all or part of the work or by providing that such expenses are a lien and charge upon the estate or interest

of the operator in the land upon which the work is situate, and that the amount thereof shall be entered by the clerk of the municipality upon the collector's roll and be collected in the same way, as nearly as may be, as municipal taxes are collected;

(*i*) requiring and providing for the keeping of records and the making of returns, statements or reports on the exploration, leasing, drilling for or production of oil or gas or the storage of oil or gas;

(*j*) regulating safety standards and requiring and providing for the keeping of safety records and the making of safety returns, statements or reports in the drilling for, production, storage and measurement, of oil or gas;

(*k*) for any matter provided in this Act to be done by regulation.

Scope of regulations

(3) Any regulation may be general or particular in its application. 1971, c. 94, s. 17 (2, 3).

Conflict with other Acts R.S.O. 1980, c. 332

18.—(1) In the event of conflict between this Act and any other general or special Act, this Act, subject only to the *Ontario Energy Board Act,* prevails.

Idem, with by-laws

(2) This Act and the regulations prevail over any municipal by-law. 1971, c. 94, s. 18.

19. Every person who,

Offences and penalties

(*a*) contravenes or fails to comply with any provision of this Act or a regulation;

(*b*) knowingly makes a false statement in any document prescribed by a regulation;

(*c*) fails to carry out the instructions of any inspector;

(*d*) unlawfully tampers or interferes with any work or portion thereof;

(*e*) wastes or causes to be wasted or permits loss or disposes of any oil or gas in any manner which results in a hazard to public health or safety, or results in air, land or water pollution; or

(*f*) wilfully delays or obstructs an inspector in the execution of his duties under this Act,

is guilty of an offence and on conviction is liable to a fine of not more than $10,000 or to imprisonment for a term of not more than one year, or to both. 1971, c. 94, s. 19.

Act supersedes R.S.O. 1980, c. 139

20. This Act applies notwithstanding the *Energy Act*. 1971, c. 94, s. 21.

CHAPTER 378

Pits and Quarries Control Act

Interpretation

1. In this Act,

(*a*) "Board" means the Ontario Municipal Board;

(*b*) "inspector" means a member of the public service who is designated in writing by the Minister as an inspector for the purposes of this Act;

(*c*) "Minister" means the Minister of Natural Resources;

(*d*) "Ministry" means the Ministry of Natural Resources;

(*e*) "operator" means the person or persons who own the right to extract material from a pit or quarry or wayside pit or quarry;

(*f*) "pit" means a place where unconsolidated gravel, stone, sand, earth, clay, fill, mineral or other material is being or has been removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside pit;

(*g*) "quarry" means a place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside quarry or open pit metal mine;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "wayside pit" or "wayside quarry" means a temporary pit or quarry opened and used by a public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right of way. 1971, c. 96, s. 1; 1972, c. 4, s. 12.

Application of Act

2. This Act applies only in such parts of Ontario as are designated by the Lieutenant Governor in Council by regulation. 1971, c. 96, s. 2.

Duty of operator

3. Every operator shall ensure that the requirements of this Act and the regulations are complied with in respect of his pit or quarry or wayside pit or quarry. 1971, c. 96, s. 3.

Pit or quarry licence

4.—(1) No person shall open, establish or operate a pit or quarry except under the authority of a licence issued by the Minister to the operator. 1971, c. 96, s. 4 (1).

Site plan

(2) An application for a licence to operate a pit or quarry shall be filed with the Minister and shall be accompanied by a site plan in quadruplicate, which shall include,

(*a*) the location, true shape, topography, contours, dimensions, hectarage and description of the lands set aside for the purposes of the pit or quarry;

(*b*) the use of all land and the location and use of all buildings and structures lying within a distance of 150 metres of any of the boundaries of the lands set aside for the purposes of the pit or quarry;

(*c*) the location, height, dimensions and use of all buildings or structures existing or proposed to be erected on the lands set aside;

(*d*) existing and anticipated final grades of excavation, contours where necessary and excavation set backs;

(*e*) drainage provisions;

(*f*) all entrances and exits;

(*g*) as far as possible, ultimate pit development, progressive and ultimate road plan, any water diversion or storage, location of stockpiles for stripping and products, tree screening and berming, progressive and ultimate rehabilitation and, where possible, intended use and ownership of the land after the extraction operations have ceased;

(*h*) cross-sections where necessary to show geology, progressive pit development and ultimate rehabilitation; and

(*i*) such other information as the Minister may require or as is prescribed by the regulations. 1971, c. 96, s. 4 (2); 1978, c. 87, s. 29 (1) (*a*).

Short form of site plan

(3) The site plan for an application in respect of a pit or quarry producing less than 15,000 tonnes per year may be in a short form prescribed by the regulations in lieu of the form required by subsection (2). 1971, c. 96, s. 4 (3); 1978, c. 87, s. 29 (1) (*b*).

Site plan binding

(4) Every operator shall carry on his operations in accordance with the site plan upon which his licence is based and the operator may amend the site plan with the consent of the Minister. 1971, c. 96, s. 4 (4).

Time for objections

5.—(1) Upon the receipt of an application, the Minister shall fix a day as the last day upon which written objections may be filed with him by the municipal council or any other authority having an interest or any person directly affected by the issuing of a licence.

Publication of notice

(2) After filing his application, the applicant shall publish notice of the application in such form and manner as is prescribed by the regulations.

Hearing by O.M.B.

(3) If any person entitled to object under subsection (1) requires a hearing by notice in writing to the Minister before the expiration of the period for objection, the Minister shall refer the matter to the Board for a hearing.

Referral by Minister

(4) The Minister may refer an application to the Board for a hearing on his own motion. 1971, c. 96, s. 5.

Grounds for refusal to issue a licence

6.—(1) The Minister shall refuse to issue a licence to operate a pit or quarry where the site plan does not comply with this Act or the regulations or where, in his opinion, the operation of the pit or quarry would be against the interest of the public taking into account,

(*a*) the preservation of the character of the environment;

(*b*) the availability of natural environment for the enjoyment of the public;

(*c*) the need, if any, for restricting excessively large total pit or quarry output in the locality;

(*d*) the traffic density on local roads;

(*e*) any possible effect on the water table or surface drainage pattern;

(*f*) the nature and location of other land uses that could be affected by the pit or quarry operation; and

(*g*) the character, location and size of nearby communities.

Idem

(2) No licence shall be issued in respect of a pit or quarry where the location is in contravention of an official plan or by-law of the municipality in which it is located.

Idem

(3) Where a local municipality does not have an official plan or by-law governing the location of pits and quarries, the Minister shall give the municipal council notice of the filing of the application and if the council objects to the location of the pit or quarry within forty-five days after receiving the notice, the Minister shall not issue the licence and subsection 5 (3) does not apply.

Terms and conditions

(4) The Minister may issue the licence subject to such terms and conditions as the Minister, in his discretion, considers advisable. 1971, c. 96, s. 6.

Review of licence

7.—(1) The Minister shall review the operation of each licensee at least once in each year for the purpose of reassessing the licensee's compliance with this Act, the regulations, the site plan and the terms and conditions of the licence.

Revocation of licences

(2) The Minister may revoke a licence for a contravention of any provision of the site plan, any term or condition of the licence or any requirement of this Act or the regulations. 1971, c. 96, s. 7.

Notice of intention to refuse

8.—(1) Where the Minister proposes to refuse to issue a licence or proposes to revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice requiring hearing

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Board if he mails or delivers, within thirty days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Minister and the Board and he may so require such a hearing.

Powers of Minister where no hearing

(3) Where an applicant or registrant does not require a hearing by the Board in accordance with subsection (2), the Minister may carry out the proposal stated in his notice under subsection (1).

Interim suspension

(4) Where the Minister gives notice of his intention to revoke a licence and, in the opinion of the Minister, the continuation of the operation of the pit or quarry constitutes an immediate threat to the interests of the public, the Minister may, upon notice to the licensee, immediately suspend the licence pending the final disposition of the matter. 1971, c. 96, s. 8.

Hearing by Board

9.—(1) Where a matter is referred to the Board for a hearing, the Board shall hold a hearing as to whether the licence to which the hearing relates should be issued or revoked, as the case may be, and the applicant or licensee, the Director of the Inspection Branch of the Ministry and such other persons as the Board specifies shall be parties to the proceeding. 1971, c. 96, s. 9 (1); 1972, c. 1, s. 1.

Procedure

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under the *Ontario Municipal Board Act*, except that section 94 of the said Act does not apply.

R.S.O. 1980, c. 347

Report of Board

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister which shall set out its findings and its recommendations as to the issue or revocation of the licence to which the hearing relates, as the case may be, and shall send a copy of its report to each party to the proceedings.

Decision of Minister

(4) After considering the report of the Board under this section, the Minister may refuse to issue or may revoke the licence to which the report relates and shall within thirty days after he receives the report of the Board give notice of his decision to the applicant or licensee specifying the reasons therefor, and the decision of the Minister is final. 1971, c. 96, s. 9 (2-4).

Quarrying near escarpment

10.—(1) Notwithstanding that a licence or permit has been issued under this Act, no person shall quarry in the Amabel or Lockport Formation at any point nearer to the natural edge of the Niagara Escarpment than ninety metres measured horizontally. 1971, c. 96, s. 10 (1); 1978, c. 87, s. 29 (2).

Idem

(2) For the purposes of this section, the Amabel and Lockport Formations are as defined in Geological Survey of Canada Memoir 289, 1957, entitled "Silurian Stratigraphy and Palaeontology of the Niagara Escarpment". 1971, c. 96, s. 10 (2).

Security for rehabilitation

11.—(1) Every licensee shall maintain on deposit with the Treasurer of Ontario such security in such amount and form as is prescribed by the regulations.

Forfeiture

(2) Where the rehabilitation program of a pit or quarry or abandoned pit or quarry is not carried out in accordance with the requirements of this Act, the regulations or the site plan or the terms and conditions of the licence, the Minister may direct that the security deposited under subsection (1) be forfeited.

Completion of rehabilitation

(3) Upon the direction of the Minister under subsection (2), the security is forfeited and the Minister may authorize any person or persons to enter upon the premises on which the pit or quarry is situate and perform such work as is necessary to complete the rehabilitation requirements, and the cost thereof shall be paid out of the moneys forfeited and the balance refunded in accordance with the regulations. 1971, c. 96, s. 11.

Permits for wayside pits and quarries

12.—(1) No person shall open, establish or operate a wayside pit or quarry except under the authority of a permit issued by the Minister to the operator.

Issuance of permits

(2) The Minister may issue a permit to operate a wayside pit or quarry where,

(*a*) the pit or quarry is necessary for the purposes of the contract or project;

(*b*) adequate provision can be made as terms and conditions of the permit to ensure a method of operation and adequate rehabilitation so as to constitute only a temporary inconvenience to the public.

Terms and conditions of permits

(3) The Minister may issue the permit subject to such terms and conditions, including terms for rehabilitation and security therefor, as the Minister, in his discretion, considers advisable.

Expiration and renewal

(4) A permit issued under this section expires on the completion of the project or contract or one year after its issue, whichever occurs first, but in the latter case the Minister may renew the permit for such further period as the Minister considers appropriate for the completion, in good faith, of the project or contract.

Revocation

(5) The Minister may revoke a permit issued under this section for any breach of the terms and conditions of the permit or of this Act or the regulations.

Permit subject to satisfying other requirements

(6) The issuance of a permit to operate a wayside pit or quarry shall not be construed to affect the application of any other law or requirements applying to the right to establish the wayside pit or quarry or its location. 1971, c. 96, s. 12.

Authority of inspectors

13.—(1) An inspector may enter in or upon any land or premises set aside for the purposes of a pit or quarry or wayside pit or quarry at any reasonable time to make such examinations, tests and inquiries as may be necessary for the purposes of ensuring compliance with this Act, the regulations, the site plan and the terms and conditions of the licence or permit.

Impeding inspector

(2) No person shall hinder or obstruct an inspector in the performance of his duties or furnish him with false information or refuse to furnish him with information. 1971, c. 96, s. 13.

Licence or permit not transferable

14. A licence or permit issued under this Act is not transferable. 1971, c. 96, s. 14.

Restraining order

15.—(1) Where it appears to the Minister that any person does not comply or intend to comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such noncompliance, the Minister may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order as he considers fitting.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1971, c. 96, s. 15.

Service

16.—(1) Subject to subsection 9 (2), any notice required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry. 1971, c. 96, s. 16 (1); 1972, c. 1, s. 1.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 96, s. 16 (2).

Application of Part IX of R.S.O. 1980, c. 268

17. (1) The provisions of this Act and the regulations are in addition to and not in substitution for the provisions of Part IX of the *Mining Act*.

Conflict with municipal by-laws

(2) Where there is a conflict between any provision of this Act or the regulations and any municipal by-law, the provision of this Act or the regulations prevails. 1971, c. 96, s. 17.

Offence

18.—(1) Every person who contravenes any provision of this Act or the regulations or is in breach of any term or condition of his licence or permit is guilty of an offence and on conviction is liable to a fine not exceeding $5,000 for each day on which the offence occurs or continues.

Idem

(2) No proceedings under subsection (1) shall be instituted except with the consent or under the direction of the Minister. 1971, c. 96, s. 18.

Regulations

19.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) governing applications for licences and permits and providing for their issue;

(*b*) designating the parts of Ontario in which this Act applies;

(*c*) prescribing additional information to be included on site plans under section 4;

(*d*) prescribing the form, terms, conditions and amount of security to be deposited under section 11;

(*e*) governing the management and operation of pits and quarries and wayside pits and quarries including,

(i) the use that shall be made of land set aside for the purpose,

(ii) the location, construction and use of buildings on the lands set aside for the purpose,

(iii) prescribing the hours during which any class or classes of activity may be carried on, on lands set aside for the purpose,

(iv) prescribing the sound levels permissible in their operation,

(v) governing final slopes, excavation set backs, fencing, tree screening and berming, warning signs, blasting requirements, roads and exits;

(*f*) governing the rehabilitation of pits and quarries and wayside pits and quarries including the stockpiling of soil for the purpose;

(*g*) requiring the payment of fees for licences and permits and prescribing the amounts thereof;

(*h*) prescribing forms for the purposes of this Act and providing for their use;

(*i*) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act.

Relief from compliance

(2) The Minister may, where in his opinion to do so would not be against the public interest, in writing relieve a licensee or permittee from strict compliance with any provision of the regulations subject to such terms and conditions as the Minister may impose. 1971, c. 96, s. 19.

Application to existing pits and quarries

20.—(1) This Act does not apply to operators of pits and quarries operating in a part of Ontario immediately before it is designated under section 2 until six months after the designation.

Application to existing wayside pits and quarries

(2) This Act does not apply to operators of wayside pits or quarries operating in a part of Ontario immediately before it is designated under section 2 until one month after the designation.

Application of s. 5

(3) Section 5 does not apply to applications for licences in respect of pits and quarries referred to in subsection (1). 1971, c. 96, s. 20.

CHAPTER 379

Planning Act

1. In this Act, Interpretation

(*a*) "council" means the council of a municipality or the board of trustees of an improvement district;

(*b*) "designated municipality" means the municipality named by the Minister under subsection 2 (6) in the case of a joint planning area or the municipality in the case of a planning area consisting of one municipality or of one municipality and territory without municipal organization;

(*c*) "joint planning area" means a planning area consisting of more than one municipality or part or parts thereof;

(*d*) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;

(*e*) "Minister" means the Minister of Housing;

(*f*) "Municipal Board" means the Ontario Municipal Board;

(*g*) "municipality" means a city, town, village, township or improvement district;

(*h*) "official plan" means a program and policy, or any part thereof, covering a planning area or any part thereof, designed to secure the health, safety, convenience or welfare of the inhabitants of the area, and consisting of the texts and maps, describing such program and policy, approved by the Minister from time to time as provided in this Act;

(*i*) "planning area" means a planning area defined by the Minister under this Act, and includes a joint planning area and a subsidiary planning area;

(*j*) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of a council or of a local board. R.S.O. 1970, c. 349, s. 1; 1973, c. 168, s. 1; O. Reg. 57/76.

PART I

OFFICIAL PLANS

Establishment of planning areas

2.—(1) The Minister, upon the application of the council of a municipality or the councils of two or more municipalities, or upon his own initiative where in his opinion it is in the interest of any area, may define and name a planning area. R.S.O. 1970, c. 349, s. 2 (1); 1973, c. 168, s. 2, *part*.

Constitution of area

(2) The planning area shall consist of part or all of one municipality or of such municipalities or parts of municipalities as in the opinion of the Minister constitute a complete planning unit having regard to the purposes for which the planning area is defined, and the Minister may include in the planning area any territory without municipal organization that adjoins a municipality or part of a municipality included in the planning area. R.S.O. 1970, c. 349, s. 2 (2); 1973, c. 168, s. 2, *part*.

Planning area in unorganized territory

(3) The Minister may define and name a planning area consisting of territory without municipal organization and may appoint a planning board for the planning area. R.S.O. 1970, c. 349, s. 2 (3); 1973, c. 168, s. 2, *part*.

Subsidiary planning areas

(4) The Minister, upon the application of the council of a municipality or the councils of two or more municipalities, or upon his own initiative where in his opinion it is in the interest of any area, may define and name a subsidiary planning area consisting in whole or in part of land that is within one or more planning areas and may define the scope and general purpose of the official plan of the subsidiary planning area and the functions of the planning board thereof. R.S.O. 1970, c. 349, s. 2 (4); 1973, c. 168, s. 2, *part*.

Planning area included in joint planning area to be subsidiary planning area

(5) When a planning area, other than a joint planning area, or any part thereof is included in a joint planning area, the planning area or part thereof so included is thereby a subsidiary planning area. R.S.O. 1970, c. 349, s. 2 (5).

Designated municipality

(6) In the case of a joint planning area, the Minister shall name the municipality that shall be the designated municipality for the purposes of this Part, and may define the scope and general purpose of the official plan of the planning area and the functions of the planning board thereof. R.S.O. 1970, c. 349, s. 2 (6); 1973, c. 168, s. 2, *part*.

Matters to be regarded

(7) In defining the scope and general purpose of an official plan, the Minister shall have regard among other matters to the requirements of the planning area for drainage, land uses, communications and public services. R.S.O. 1970, c. 349, s. 2 (7); 1973, c. 168, s. 2, *part*.

Dissolution or alteration of planning area

(8) The Minister may dissolve or alter the boundaries of a planning area, but where an official plan is in effect in the planning area it remains in effect, notwithstanding the dissolution or alteration, until altered in accordance with this Part. R.S.O. 1970, c. 349, s. 2 (8); 1973, c. 168, s. 2, *part*.

Appointment of planning board

3.—(1) The council of the designated municipality shall appoint the planning board of a planning area. R.S.O. 1970, c. 349, s. 3 (1); 1973, c. 168, s. 3.

Where unorganized territory

(2) Where a planning area consists of part or all of one or more municipalities and territory without municipal organization, every appointment to the planning board of the planning area is subject to the approval of the Minister. 1976, c. 38, s. 1.

Composition of planning boards

4.—(1) A planning board is a body corporate by the name of "..... Board" (*inserting the name designated by the Minister*) and shall consist of,

(*a*) where the planning area consists of part or all of one municipality or of part or all of one municipality and territory without municipal organization, the head of the council of the municipality as a member *ex officio*; or

(*b*) in the case of a joint planning area, the head of the council of the designated municipality as a member *ex officio*,

and four, six or eight members who are not employees of a municipality within or partly within the planning area or of a local board of any such municipality. R.S.O. 1970, c. 349, s. 4 (1); 1972, c. 118, s. 1 (1).

Interpretation

(2) In subsection (1), "employees" does not include teachers employed by a board of education or school board. R.S.O. 1970, c. 349, s. 4 (2).

Term of office

(3) The members of the planning board who are not members of a municipal council shall hold office for three years, provided that on the first appointment the council of the designated municipality, from among such members shall designate members who shall hold office,

(*a*) until the 1st day of January of the year following the date of appointment;

(*b*) until the 1st day of January of the second year following the date of appointment; and

(*c*) until the 1st day of January of the third year following the date of appointment,

respectively, so that as nearly as possible one-third of such members shall retire each year; and the members of the planning board who are members of a council shall be appointed annually. R.S.O. 1970, c. 349, s. 4 (4).

When member elected to council

(4) When a member of a planning board becomes a member of a municipal council, he ceases to be a member of the planning board, but is eligible to be appointed annually. R.S.O. 1970, c. 349, s. 4 (5); 1972, c. 118, s. 1 (3).

Re-appointment

(5) The members of the planning board shall hold office until their successors are appointed and such appointments are approved, where approval thereof is required, and are eligible for reappointment.

Vacancies

(6) Where a member ceases to be a member of the planning board before the expiration of his term, the council of the designated municipality shall appoint another eligible person for the unexpired portion of the term.

Quorum

(7) A majority of the members of a planning board constitutes a quorum.

Officers

(8) The planning board shall elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

Secretary-treasurer, employees, consultants

(9) The planning board shall appoint a secretary-treasurer, who may be a member of the planning board, and may engage such employees and consultants as is considered expedient. R.S.O. 1970, c. 349, s. 4 (6-10).

Special provisions

5. Notwithstanding this or any other Act, the Minister may, in order to suit the special needs of any planning area,

vary the constitution of the planning board, the procedures by which it is appointed, the term of office of its members, and the manner in which it is to function, and designate the functions of the planning board within the scope of section 12, and may make special provisions relating to the recommendation, adoption and approval of the official plan of the planning area. R.S.O. 1970, c. 349, s. 5; 1973, c. 168, s. 2, *part*.

Execution of documents

6. The execution of documents by the planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the planning board. R.S.O. 1970, c. 349, s. 6.

Disclosure of assessment information to planning boards R.S.O. 1980, c. 31

7.—(1) Notwithstanding section 57 of the *Assessment Act*, it is not an offence to disclose the information referred to therein to a member or employee of a planning board who declares that such information is required in the course of his duties.

Disclosure of assessment information by planning board employees, etc.

(2) A member or employee of a planning board who wilfully discloses or permits to be disclosed the information referred to in subsection (1) to any other person not likewise entitled in the course of his duties to acquire or have access to the information is guilty of an offence and on conviction is liable to a fine of not more than $200, or to imprisonment for a term of not more than six months, or to both.

Idem

(3) This section does not prevent disclosure of such information by any person when being examined as a witness in an action or other proceeding in a court or in an arbitration. R.S.O. 1970, c. 349, s. 7.

Finances

8.—(1) Where a planning area consists of part or all of one municipality or of part or all of one municipality and territory without municipal organization, the planning board shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time.

Estimates

(2) In the case of a joint planning area, the planning board shall submit its estimates to the council of each municipality included in the planning area, and shall submit with the estimates a statement as to the proportion thereof to be chargeable to each of the municipalities.

Approval

(3) If the estimates are approved, or are amended and approved, by the councils of municipalities in the planning area representing more than one-half of the population of the planning area, the estimates are binding on all the municipalities in the planning area.

Notice

(4) After the estimates have been approved as provided in subsection (3), the planning board shall so notify each municipality in the planning area, and shall notify each municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection (2).

Where apportionment unsatisfactory

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection (4), notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Municipal Board.

Power of Municipal Board

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final.

Payments

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection (4) or by the Municipal Board under subsection (6), as the case may be. R.S.O. 1970, c. 349, s. 8 (1-7).

County acting on behalf of municipalities

(8) Where all of the municipalities that form a county for municipal purposes or a majority of the municipalities in a county that form part of the county for municipal purposes are included in one planning area, the Minister may authorize the council of the county to act on behalf of such municipalities for the purposes of this section. R.S.O. 1970, c. 349, s. 8 (8); 1973, c. 168, s. 2, *part*.

Recovery by county

(9) Where a county is chargeable under subsection (8), it shall recover its payments as part of the county rates from the municipalities on behalf of which it acts in the manner provided in section 365 of the *Municipal Act*. R.S.O. 1970, c. 349, s. 8 (9).

R.S.O. 1980, c. 302

Remuneration for members of planning boards

9. A planning board may provide for the payment of salaries, expenses or allowances for the members thereof and shall include its financial requirement therefor in its estimates under section 8. R.S.O. 1970, c. 349, s. 9.

Grants, municipal

10.—(1) Any municipality within or partly within a planning area may make grants of money to the planning board.

(2) The county in which a planning area or part thereof is situate may make grants of money to the planning board. R.S.O. 1970, c. 349, s. 10. county

11. Notwithstanding subsection 88 (2) of the *Municipal Act*, in the case of a joint planning area the accounts and transactions of the planning board shall be audited by an auditor of the designated municipality. R.S.O. 1970, c. 349, s. 11. Audit of planning board's accounts R.S.O. 1980, c. 302

12.—(1) Every planning board shall investigate and survey the physical, social and economic conditions in relation to the development of the planning area and may perform such other duties of a planning nature as may be referred to it by any council having jurisdiction in the planning area, and without limiting the generality of the foregoing it shall, Duties of planning boards

(*a*) prepare maps, drawings, texts, statistical information and all other material necessary for the study, explanation and solution of problems or matters affecting the development of the planning area;

(*b*) hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of the planning area in determining the solution of problems or matters affecting the development of the planning area;

(*c*) consult with any local board having jurisdiction within the planning area;

(*d*) prepare a plan for the planning area suitable for adoption as the official plan thereof and forward it to the councils of the municipalities affected thereby, and recommend such plan to the council of the designated municipality for adoption;

(*e*) recommend from time to time to the councils of the municipalities in the planning area the implementation of any of the features of the official plan of the planning area; and

(*f*) review the official plan from time to time and recommend amendments thereto to the council of the designated municipality for adoption.

(2) No plan shall be recommended for adoption unless it is approved by a vote of the majority of all the members of the planning board. R.S.O. 1970, c. 349, s. 12. Recommendation of plan

Plan to be submitted to council

13.—(1) The plan as finally prepared and recommended by the planning board shall be submitted to the council of the designated municipality. R.S.O. 1970, c. 349, s. 13 (1).

Adoption of plan

(2) The council of the designated municipality may, by by-law, adopt the plan as submitted or adopt it with such amendments thereto as the council considers appropriate. 1972, c. 118, s. 2.

Adoption by other municipality

(3) In the case of a joint planning area, the council of any other municipality within or partly within the planning area may adopt the plan by by-law,

(*a*) after the expiration of ninety days from the day that the plan was recommended to the council of the designated municipality by the planning board, if the council of the designated municipality has not in the meantime adopted the plan; or

(*b*) within such period of ninety days if the council of the designated municipality by resolution consents thereto. R.S.O. 1970, c. 349, s. 13 (3).

Plan to be submitted to Minister

14.—(1) Upon adoption, the plan shall be submitted by the council that adopted it to the Minister who may refer the plan to any ministry of the public service of Ontario that may be concerned therewith and to Ontario Hydro, and, in the case of a joint planning area, the Minister shall refer the plan to the council of every municipality in the planning area that the Minister considers is affected by the plan, and if modifications appear desirable to the Minister he shall, after consultation with the council of the municipality affected, make such modifications and cause the plan to be amended accordingly. R.S.O. 1970, c. 349, s. 14 (1); 1972, c. 1, s. 2; 1973, c. 57, s. 19; 1973, c. 168, s. 4.

Approval by Minister

(2) The Minister may then approve the plan, whereupon it is the official plan of the planning area. R.S.O. 1970, c. 349, s. 14 (2).

Approval by Minister of parts of plan

(3) Notwithstanding subsection (2), the Minister may approve any part of the plan and may from time to time approve additional parts of the plan and such part or parts together as approved from time to time is the official plan of the planning area, provided that nothing herein derogates from the right of any person to request the Minister to refer any part of the plan to the Municipal Board under section 15. 1974, c. 53, s. 1.

Reference of part of plan to O.M.B.

15.—(1) The Minister may refer any part of the plan to the Municipal Board and, where any person requests the Minister to refer any part of the plan to the Municipal Board, the Minister shall refer such part to the Municipal Board, unless, in his opinion, such request is not made in good faith or is frivolous or is made only for the purpose of delay, and, when the Minister has referred any part of the plan to the Municipal Board, the approval of the Municipal Board has the same force and effect as if it were the approval of the Minister.

What to form official plan

(2) When a part of the plan has been referred to the Municipal Board, the Minister may approve the remainder of the plan, whereupon the remainder, together with such part of the plan as may be approved by the Municipal Board, is the official plan of the planning area. R.S.O. 1970, c. 349, s. 15.

Lodging of official plan

16.—(1) At least two, or as many as may be required, certified copies of the official plan shall be lodged by the clerk of the designated municipality in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister within the planning area, and the copies shall be available at such places for public inspection during office hours.

Idem

(2) A duplicate original of the official plan shall be lodged by the clerk of the designated municipality in every land registry office of lands within the planning area, where it shall be made available to the public as a production. R.S.O. 1970, c. 349, s. 16.

Amendments and repeal

17.—(1) The provisions of this Act with respect to an official plan apply with necessary modifications to amendments thereto, or the repeal thereof, provided that the Minister may, subject to subsection (2), approve any amendment or repeal that may be proposed by the council of any municipality.

Conditions for Minister's approval

(2) Before approving an amendment or repeal initiated by a council, the Minister may require that a report of the planning board be obtained in respect of the proposal and, if the planning board does not concur in the proposal the Minister shall not approve the amendment or repeal unless it has been adopted by a vote of two-thirds of all the members of the council.

Application for amendment

(3) Where any person requests the council to initiate an amendment to the official plan and the council,

(*a*) refuses to propose the amendment; or

(*b*) fails to propose the amendment within thirty days from the receipt of the request,

such person may request the Minister to refer the proposal to the Municipal Board.

Reference to Municipal Board

(4) Upon receipt of the request, the Minister may require a report on the proposal from the planning board and may refer the proposal to any public authority that may be concerned therewith and he may refuse the request or refer the proposal to the Municipal Board.

Disposal of reference

(5) When a proposal is referred to the Municipal Board under subsection (4), the Municipal Board may reject the proposal or direct that the council cause the amendment to be made in the manner provided in the order. R.S.O. 1970, c. 349, s. 17.

Powers of Minister re planning area in unorganized territory

18. For the purposes of sections 12, 13, 14, 16 and 17, when a planning area is defined and named under subsection 2 (3), the Minister shall be deemed to have all the powers and duties of a council and of any officer of a council. R.S.O. 1970, c. 349, s. 18.

Public works and by-laws to conform with plan

19.—(1) Notwithstanding any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (3), no by-law shall be passed for any purpose that does not conform therewith.

Validity of by-laws conforming to amendments to official plans

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and such by-law shall be deemed to be valid and to have come into force on the day it was passed if the Minister approves the amendment to the official plan and if the Municipal Board subsequently approves the by-law, where such approval of the by-law is required. R.S.O. 1970, c. 349, s. 19 (1, 2).

Preliminary steps that may be taken where proposed public work would not conform with official plan

(3) Notwithstanding subsections (1) and (2), the council of a municipality, including a metropolitan, regional or district municipality, may take into consideration the undertaking of a public work that does not conform with an official plan that is in effect, and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this sub-

section authorizes the actual undertaking of any public work that does not conform with an official plan. 1978, c. 93, s. 1.

Municipal Board may approve by-law

(4) The Municipal Board, upon the application of the council of a municipality for which an official plan is in effect, may by its order declare that a by-law of such municipality shall be deemed to conform with the official plan, if the Municipal Board is of opinion that the by-law conforms with the general intent and purpose of the official plan.

Procedure

(5) The procedure upon an application to the Municipal Board under subsection (4) shall be the same as nearly as may be as in the case of an application to the Municipal Board under section 39. R.S.O. 1970, c. 349, s. 19 (3, 4).

By-laws implementing plans

20. A by-law that conforms with an official plan shall be deemed to implement the official plan whether the by-law is passed before or after the official plan is approved. R.S.O. 1970, c. 349, s. 20.

Acquisition of lands in accordance with provisions of official plan

21.—(1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have been approved by the Minister after the 28th day of June, 1974, the council may, in accordance with such provisions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, provided that any land so acquired or held may be sold, leased or otherwise disposed of when no longer required. 1974, c. 53, s. 2.

Powers of designated municipality

(2) For the purpose of developing any feature of the official plan, the designated municipality in the case of a joint planning area, with the approval of the Minister, may exercise any of the powers mentioned in subsection (1) in respect of land within the planning area.

Contributions to cost

(3) Any county or municipality may contribute towards the cost of acquiring land under this section. R.S.O. 1970, c. 349, s. 21 (2, 3).

Interpretation

22.—(1) In this section,

(*a*) "redevelopment" means the planning or replanning, design or redesign, resubdivision, clearance, development, reconstruction and rehabilitation, or any of them, of a redevelopment area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or

other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;

(*b*) "redevelopment area" means an area within a municipality, the redevelopment of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other reason;

(*c*) "redevelopment plan" means a general scheme, including supporting maps and texts, approved by the Minister for the redevelopment of a redevelopment area. R.S.O. 1970, c. 349, s. 22 (1); 1973, c. 168, s. 5 (1), *part*.

Designation of redevelopment area

(2) The council of a municipality that has an official plan in respect of land use may, with the approval of the Minister, by by-law designate the whole or any part of an area covered by such an official plan as a redevelopment area, and the redevelopment area shall not be altered or dissolved without the approval of the Minister.

Acquisition and clearance of land

(3) When a by-law has been passed and approved under subsection (2), the municipality, with the approval of the Minister, may,

(*a*) acquire land within the redevelopment area;

(*b*) hold land acquired before or after the passing of the by-law within the redevelopment area; and

(*c*) clear, grade or otherwise prepare the land for redevelopment. R.S.O. 1970, c. 349, s. 22 (2, 3).

Withdrawal of Minister's approvals

(4) If, at any time before a redevelopment plan for the redevelopment area has been approved by the Minister, the Minister is not satisfied with the progress made by the municipality in acquiring land within the redevelopment area or in preparing a redevelopment plan, he may withdraw his approvals under subsections (2) and (3) and thereupon the by-law designating the redevelopment area ceases to have effect and the redevelopment area ceases to exist. R.S.O. 1970, c. 349, s. 22 (4); 1973, c. 168, s. 5 (1), *part*.

Adoption of redevelopment plan

(5) When a by-law has been passed and approved under subsection (2), the council, with the approval of the Minister, may by by-law adopt a redevelopment plan for the redevelopment area. R.S.O. 1970, c. 349, s. 22 (5); 1973, c. 168, s. 5 (1), *part*.

Conformity to official plan

(6) No redevelopment plan shall be approved by the Minister unless it conforms with the official plan. R.S.O. 1970, c. 349, s. 22 (6); 1973, c. 168, s. 5 (1), *part*.

Amendment

(7) A redevelopment plan adopted and approved under subsection (5) may be amended by by-law with the approval of the Minister. R.S.O. 1970, c. 349, s. 22 (7); 1973, c. 168, s. 5 (1), *part*.

Powers of council re land

(8) For the purpose of carrying out the redevelopment plan, the municipality, with the approval of the Minister, may,

(*a*) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the redevelopment area in conformity with the redevelopment plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;

(*b*) sell, lease or otherwise dispose of any land acquired or held by it in the redevelopment area to any person or governmental authority for use in conformity with the redevelopment plan. R.S.O. 1970, c. 349, s. 22 (8).

Grants or loans

(9) For the purpose of carrying out the redevelopment plan, the municipality may make grants or loans to the registered owners or assessed owners of lands and buildings within the redevelopment area to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the redevelopment plan.

Application of s. 44 (2, 3)

(10) The provisions of subsections 44 (2) and (3) apply with necessary modifications to any loan made under subsection (9). 1973, c. 168, s. 5 (2).

Conditions of sale, etc.

(11) Until a by-law or amending by-law passed under section 39, after the adoption of the redevelopment plan is in force in the redevelopment area, no land acquired, and no building constructed, by the municipality in the redevelopment area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of agrees with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the redevelopment plan until such a by-law or amending by-law is in force; but the municipality may, with the approval of the Minister, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the redevelopment plan, for a term of not more than three years at any one time.

Debentures R.S.O. 1980, c. 302

(12) Notwithstanding subsection 143 (1) of the *Municipal Act*, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides. R.S.O. 1970, c. 349, s. 22 (9, 10).

Agreements re special studies

23. A municipality, with the approval of the Minister, may enter into an agreement with any governmental authority, or any agency thereof created by statute, for the carrying out of studies relating to the physical condition of the municipality or any part thereof. R.S.O. 1970, c. 349, s. 23.

Agreements for grants in aid of redevelopment

24. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the redevelopment of a redevelopment area as defined in section 22, including the carrying out of studies for the purpose of selecting areas for redevelopment. R.S.O. 1970, c. 349, s. 24; 1974, c. 53, s. 3.

R.S.O. 1980, c. 302 to apply

25. The provisions of the *Municipal Act* apply to the acquisition of land under this Act. R.S.O. 1970, c. 349, s. 25.

Power to clear, grade, etc., lands acquired

26. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held. R.S.O. 1970, c. 349, s. 26.

Exchange of lands

27. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality. R.S.O. 1970, c. 349, s. 27.

Interpretation

28. For the purposes of this Part, "municipality" includes a county. R.S.O. 1970, c. 349, s. 28.

PART II

SUBDIVISIONS

Interpretation

29.—(1) In this section, "consent" means,

(*a*) in the case of land situate in a municipality that forms part of a county for municipal purposes or situate in a municipality that is within a metropolitan, regional or district municipality,

(i) a consent given by the committee of adjustment of such municipality under subsection 49 (3), if such committee was constituted prior to the 15th day of June, 1970, or by such committee constituted on or after the 15th day of June, 1970, if the municipality has an official plan approved by the Minister, or

(ii) where there is no committee of adjustment referred to in subclause (i), a consent given by the land division committee constituted under section 31, or

(iii) where there is no committee of adjustment referred to in subclause (i), and no land division committee referred to in subclause (ii), a consent given by the Minister;

(*b*) in the case of land situate in a municipality that does not form part of a county for municipal purposes or situate in a municipality that is not within a metropolitan, regional or district municipality, or situate in a municipality in a territorial district,

(i) a consent given by the committee of adjustment of such municipality under subsection 49 (3), if such committee was constituted prior to the 15th day of June, 1970, or by such committee constituted on or after the 15th day of June, 1970, if the municipality has an official plan approved by the Minister, or

(ii) where there is no committee of adjustment referred to in subclause (i), a consent given by the Minister; or

(*c*) in the case of land situate in territory without municipal organization, a consent given by the Minister. R.S.O. 1970, c. 349, s. 29 (1).

Proviso

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only. 1974, c. 53, s. 4 (1), *part*.

Subdivision control

(3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment

with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless,

(*a*) the land is described in accordance with and is within a registered plan of subdivision; or

(*b*) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to, any land abutting the land that is being conveyed or otherwise dealt with; or

(*c*) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality, metropolitan municipality, regional municipality, district municipality or county; or

(*d*) the land or any use of or right therein is being acquired for the construction of a transmission line as defined in the *Ontario Energy Board Act* and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; or

R.S.O. 1980, c. 332

(*e*) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment with respect to the land or enter into an agreement with respect to the land.

Designation of plans of subdivision not deemed registered

(4) The council of a municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3). R.S.O. 1970, c. 349, s. 29 (2, 3).

Part-lot control

(5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to a part of any lot or block of the

land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless,

(*a*) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to, any land abutting the land that is being conveyed or otherwise dealt with; or

(*b*) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality, metropolitan municipality, regional municipality, district municipality or county; or

(*c*) the land or any use of or right therein is being acquired for the construction of a transmission line or utility line, both as defined in the *Ontario Energy Board Act*, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; or R.S.O. 1980, c. 332

(*d*) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment with respect to the land or enter into an agreement with respect to the land. R.S.O. 1970, c. 349, s. 29 (4); 1976, c. 38, s. 2 (1).

Exception

(6) Nothing in subsections (3) and (5) prohibits, and subsections (3) and (5) shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgage or charge applies to all of the land described in the conveyance. 1974, c. 53, s. 4 (1), *part*.

Exception to application of s. 29 (3, 5)

(7) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under this section, subsections (3) and (5) do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land

unless the committee of adjustment, the land division committee or the Minister, as the case may be, in granting the consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction.

Idem

(8) Where a committee of adjustment, a land division committee or the Minister stipulates in accordance with subsection (7),

(*a*) in the case of the committee of adjustment or the land division committee, the certificate provided for in subsection 49 (21); and

(*b*) in the case of the Minister, the consent given by the Minister,

shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been granted without the stipulation. 1978, c. 93, s. 2 (1).

Effect of contravention of s. 29, etc., before plan registered, etc.

R.S.O. 1980, c. 84

(9) Where land is within a registered plan of subdivision or within a registered description under the *Condominium Act* or where land is conveyed with a consent given under this section or a predecessor thereof, any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (*b*), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance or creation of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the 15th day of December, 1978. 1978, c. 93, s. 2 (2).

Designation of plans of subdivision not subject to part-lot control

(10) Notwithstanding subsection (5), the council of a municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans of subdivision or part or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection (5) ceases to apply to such land, provided that the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection (21) have been complied with, subsection (5) thereupon applies to the lands affected by the repeal or amendment. R.S.O. 1970, c. 349, s. 29 (5); 1972, c. 118, s. 3.

Simultaneous conveyances, etc., of abutting lands

(11) Where a person conveys land or grants, assigns or exercises a power of appointment with respect to land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous conveyances of abutting lands or by way of other simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the lands shall be deemed for the purposes of subsections (3) and (5) to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment with respect to, land abutting the land that is being conveyed or otherwise dealt with. 1971, c. 2, s. 1 (1).

Partial discharges, etc., effect of

(12) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation. 1973, c. 168, s. 6, *part*.

Saving

(13) Subsection (12) does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation.

(*a*) is the same land in respect of which a consent to convey has previously been given; or

(*b*) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection (4); or

(*c*) is owned by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality, metropolitan municipality, regional municipality, district municipality or county. 1974, c. 53, s. 4 (2).

Application to ARDA

(14) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land

that was acquired by the Directorate under one registered deed or transfer. 1973, c. 168, s. 6, *part*.

Foreclosure or exercise of power of sale, when approval of Minister required

(15) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister unless all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, as the case may be, but this subsection does not apply where the land foreclosed or in respect of which the power of sale is exercised comprises only,

(*a*) the whole of one or more lots or blocks within one or more registered plans of subdivision; or

(*b*) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge. 1976, c. 38, s. 2 (2).

Release of interest by joint tenant or tenant in common

(16) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections (3) and (5), to convey such land by way of deed or transfer and to retain the fee in the abutting land. 1978, c. 93, s. 2 (3).

Consent to lapse after two years

(17) Any consent mentioned in subsection (3) or (5) shall lapse, in the case of a consent given by the Minister, at the expiration of two years after the date upon which the consent was granted, and in the case of a consent given by the committee of adjustment or the land division committee, at the expiration of two years after the date of the certificate given under subsection 49 (21), unless within such period,

(*a*) an agreement was entered into for the sale and purchase of the land in respect of which the consent was granted or that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more; or

(*b*) the land in respect of which the consent was granted was conveyed, mortgaged or charged or a power of appointment with respect to the land was exercised,

provided that the committee of adjustment, the land division committee or the Minister, as the case may be, in granting the consent may provide for an earlier lapsing of the consent. R.S.O. 1970, c. 349, s. 29 (6); 1971, c. 2, s. 1 (2).

Conveyance, etc., contrary to section not to create or convey interest in land

(18) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with.

Copy of by-law to be lodged with Minister

(19) A certified copy or duplicate of every by-law passed under subsection (4) shall be lodged by the clerk of the municipality in the office of the Minister. R.S.O. 1970, c. 349, s. 29 (7, 8).

When by-law effective

(20) A by-law passed under subsection (4) is not effective until the requirements of subsection (21) have been complied with. 1978, c. 93, s. 2 (4), *part*.

Copy of by-law to be registered

(21) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office. R.S.O. 1970, c. 349, s. 29 (10).

Notice

(22) No notice or hearing is required prior to the passing of a by-law under subsection (4), but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person.

Hearing by council

(23) The council shall hear in person or by his agent any person to whom a notice was sent under subsection (22), who within fifteen days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law. 1978, c. 93, s. 2 (4), *part*.

Matters to be regarded in determining consent, conditions

(24) A committee of adjustment, a land division committee and the Minister, in determining whether a consent is to be given shall have regard to the matters that are to be had regard to under subsection 36 (4) and have the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsections 36 (5) and (8), and shall require that all conditions imposed be fulfilled prior to the granting of a consent. R.S.O. 1970, c. 349, s. 29 (12).

Agreements

(25) Every municipality and the Minister may enter into agreements imposed as a condition to the giving of a

consent and any such agreement may be registered against the land to which it applies and the municipality or the Minister, as the case may be, shall be entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 1976, c. 38, s. 2 (3).

R.S.O. 1980, cc. 445, 230

Special account

(26) Where on the granting of a consent a condition has been imposed that land be conveyed for public purposes other than highways, any land so conveyed may be sold by the municipality at any time and subsection 36 (11) applies to moneys received in lieu of a conveyance of such land and to moneys received from the sale of such land. R.S.O. 1970, c. 349, s. 29 (13).

Effect of contraventions of s. 29, etc., on conveyances heretofore made

30.—(1) The Minister may, by order, in respect of land described in the order provide that the contravention, before the 19th day of March, 1973, of section 29 of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, or a predecessor thereof or of a by-law passed under a predecessor of section 29 or of an order made under clause 27 (1) (*b*), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not have and shall be deemed never to have had the effect of preventing the conveyance or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is filed with the Registrar of Regulations.

Proviso

(2) No order shall be made by the Minister under subsection (1) in respect of land situate in a local municipality unless the council of the local municipality in which the land is situate has, by by-law, requested the Minister to make such order, which such by-law the council is hereby empowered to pass.

Municipality may impose conditions

(3) A municipality may, as a condition to the passage of a by-law under subsection (2), impose such conditions in respect of any land described in the by-law as it considers appropriate.

Proviso

(4) Nothing in this section derogates from the power the Minister, a land division committee or a committee of adjustment has to grant consents referred to in section 29. 1973, c. 168, s. 7.

Appointment of land division committee

31.—(1) Where one or more municipalities forming part of a county for municipal purposes, or being within a metro-

politan, regional or district municipality, do not have a committee of adjustment constituted prior to the 15th day of June, 1970, the council of the county, or of the metropolitan, regional or district municipality, as the case may be, shall, upon being notified in writing of this fact by the Minister, constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable.

Interpretation

(2) In subsection (3), "employee of a municipality" includes an employee of a local board of the municipality but does not include a teacher employed by a board of education or school board.

Members and employees of county, etc., not eligible

(3) No member of council or employee of a county or of a metropolitan, regional or district municipality and no member of council or employee of a municipality forming part of a county or of a municipality being within a metropolitan, regional or district municipality is eligible to be a member of the land division committee constituted by the council of the county or metropolitan, regional or district municipality. R.S.O. 1970, c. 349, s. 30 (1-3).

Quorum

(4) Where a land division committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum. 1971, c. 2, s. 2 (1).

Application of ss. 48 (5, 6, 8-13), 49 (3-21) to committee, power to grant consents

(5) The provisions of subsections 48 (5), (6) and (8) to (13) and subsections 49 (3) to (21) apply with necessary modifications to the land division committee, but the land division committee does not have jurisdiction to grant consents in respect of land situate in a municipality that has a committee of adjustment constituted prior to the 15th day of June, 1970, or constituted on or after the 15th day of June, 1970, if the municipality has an official plan approved by the Minister, unless the council of such municipality passes a by-law authorizing the land division committee to grant such consents and the time provided for in subsection (6) has elapsed, or unless the committee of adjustment is dissolved. R.S.O. 1970, c. 349, s. 30 (4); 1971, c. 2, s. 2 (2).

Clerk to mail copy of by-law to secretary-treasurer and Minister within 5 days

(6) Where a by-law is passed under subsection (5), the clerk of the municipality shall forward by registered mail a certified copy thereof to the secretary-treasurer of the committee of adjustment, to the secretary-treasurer of the land division committee and to the Minister not later than five days after the passing of the by-law, and ten days after the passing of the by-law the land division committee has jurisdiction to grant consents in respect of land in such municipality and the committee of adjustment ceases to have jurisdiction for this purpose. R.S.O. 1970, c. 349, s. 30 (5).

Delegation of Minister's powers

32.—(1) The Minister may by order delegate to a planning board of a planning area in a territorial district the authority of the Minister to give consents under section 29 in respect of any land within the planning area and where authority is delegated to a planning board the reference to the Minister in subclause 29 (1) (*b*) (ii) and in clause 29 (1) (*c*) shall be deemed to be a reference to such planning board.

Conditions and withdrawal of delegation

(2) A delegation made by the Minister under subsection (1) may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

Application of ss. 48 (7, 8, 12, 13), 49 (3-21)

(3) Where the Minister has delegated his authority to a planning board under subsection (1), the provisions of subsections 48 (7), (8), (12) and (13) and subsections 49 (3) to (21) apply with necessary modifications in respect of applications for consent and such planning board shall be deemed to be a committee of adjustment for the purposes of subsections 29 (17) and (24).

Agreements

(4) A planning board as referred to in subsection (3) may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 29 (25) apply with necessary modifications to any such agreement. 1976, c. 64, s. 1, *part*.

Appointment of district land division committee and delegation

33.—(1) The Minister by order may constitute and appoint one or more district land division committees and may by order delegate thereto the authority of the Minister to give consents under section 29 in respect of such lands situate in a territorial district as are defined in the order, and, where authority is delegated to a district land division committee, the reference to the Minister in subclause 29 (1) (*b*) (ii) and in clause 29 (1) (*c*) shall be deemed to be a reference to such district land division committee.

Selection of members

(2) The members of a district land division committee to be appointed under subsection (1) shall be selected at a meeting or meetings of the property owners and tenants of land in the district defined in the order made under subsection (1), and the procedure for calling such meeting or meetings, the number of members to be selected and the manner of conducting such selection shall be as prescribed by regulations made by the Minister, which regulations the Minister is authorized to make.

Conditions and withdrawal of delegation

(3) A delegation made by the Minister under subsection (1) may be subject to such conditions as the Minister may by

order provide and the Minister may by order withdraw any delegation.

Application of ss. 48 (7-10, 12, 13), 49 (3-21)

(4) Where the Minister has delegated his authority to a district land division committee under subsection (1), the provisions of subsections 48 (7) to (10) and (12) and (13) and subsections 49 (3) to (21) apply with necessary modifications and such district land division committee is deemed to be a land division committee within the meaning of subsections 29 (17) and (24).

Agreements

(5) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 29 (25) apply with necessary modifications to any such agreement.

Remuneration

(6) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them.

Application of fees

(7) The moneys received by a district land division committee by way of fees in respect of applications made to it shall be paid into the Consolidated Revenue Fund. 1976, c. 64, s. 1, *part*.

When committee of adjustment ceases to have jurisdiction to grant consents

34.—(1) Notwithstanding any other provision of this Act, if a municipality does not have an official plan approved by the Minister or the Municipal Board on or before the 31st day of December, 1973, a committee of adjustment of such municipality shall after that date have no further jurisdiction to grant consents for the purposes of section 29 and the Minister or the land division committee, as the case may be, shall act in the place and stead of such committee for such purposes. R.S.O. 1970, c. 349, s. 31 (1).

Where jurisdiction to grant consents may be terminated

(2) Notwithstanding any other provision in this Act, the Minister, if he is of the opinion that a committee of adjustment or a land division committee constituted and appointed under section 31 is not giving consents in the manner contemplated by the provisions of this Act, may by order declare that such committee has no further jurisdiction to give consents for the purposes of section 29, and thereafter where the jurisdiction of a committee of adjustment has been so terminated, the Minister or the land division committee, as the case may be, shall act in the place and stead of the committee of adjustment for the giving of consents, and, where the jurisdiction of a land division committee has been so terminated, the Minister shall act in the place and stead of the land division committee. 1976, c. 64, s. 3.

Power of Minister re zoning and sub-division control

35.—(1) The Minister may by order,

(*a*) with respect to any land in Ontario, exercise any of the powers conferred upon councils by section 39 without the approval of the Municipal Board; and

(*b*) with respect to any land in Ontario, exercise the powers conferred upon councils by subsection 29 (4).

Power of Minister to allow minor variances

(2) Where an order has been made under clause (1) (*a*), the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has in respect of a by-law implementing an official plan or passed under section 39 as provided in subsections 49 (1) and (2), but the provisions of subsections 49 (4) to (20) do not apply to the exercise by the Minister of such powers. R.S.O. 1970, c. 349, s. 32 (1, 2).

Order prevails over by-law in event of conflict

(3) In the event of a conflict between an order made under clause (1) (*a*) and a by-law that is in effect under section 39, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect. 1973, c. 168, s. 8 (1).

Limitation of zoning powers

(4) Where an official plan is in effect, the Minister shall not, with respect to land covered by the official plan, make an order under clause (1) (*a*) that does not conform with the official plan. R.S.O. 1970, c. 349, s. 32 (4).

Notice

(5) No notice or hearing is required prior to the making of an order under subsection (1) but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as he considers proper and shall set out in the notice the provisions of subsections (8), (9) and (10). 1976, c. 64, s. 4 (1).

Idem

(6) The Minister shall cause a duplicate or certified copy of an order made under clause (1) (*a*),

(*a*) where the land affected is situate in a municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more municipalities, in the office of the clerk of each of such municipalities and the provisions of subsection 78 (2) of the *Municipal Act* apply with necessary modifications; and

R.S.O. 1980, c. 302

(*b*) where the land affected is situate in territory without municipal organization, to be lodged in the

proper land registry office, where it shall be made available to the public as a production. 1972, c. 118, s. 4 (2); 1978, c. 93, s. 3.

Registration

(7) The Minister shall cause a certified copy or duplicate of an order made under clause (1) (*b*) to be registered in the proper land registry office.

Revocation or amendment

(8) The Minister may, on his own initiative or at the request of any person, by order amend or revoke in whole or in part any order made under subsection (1).

Notice

(9) Except as provided in subsection (10), the Minister before amending or revoking in whole or in part an order made under subsection (1) shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof.

Hearing by O.M.B.

(10) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection (1), the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the application and thereupon the Municipal Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part.

Refusal of request by Minister

(11) Notwithstanding subsection (10), where the Minister is of the opinion that a request made under subsection (10) is not made in good faith or is frivolous or is made only for the purpose of delay, he may refuse such request.

Notice of hearing

(12) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10), notice of the hearing shall be given in such manner and to such persons as the Municipal Board may direct, and the Municipal Board shall hear any submissions that any person may desire to bring to the attention of the Board.

Power of Municipal Board

(13) The Municipal Board after the conclusion of the hearing shall make a decision to either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the Minister shall give effect to the decision of the Board.

Copy of decision

(14) A copy of the decision of the Municipal Board shall be sent to each person who appeared at the hearing and made representations on the matter.

Offence

(15) Every person who contravenes an order of the Minister made under clause (1) (*a*) is guilty of an offence and on conviction is liable to a fine of not more than $1,000.

Effect of land use order

(16) An order of the Minister made under clause (1) (*b*) has the same effect as a by-law passed under section 29. 1976, c. 64, s. 4 (2).

Application for approval of subdivision plans

36.—(1) When land is to be subdivided for the purpose of being sold, conveyed or leased in lots by reference to a registered plan of subdivision, the owner of the land or someone authorized by him in writing shall forward at least eight, or as many as may be required, copies of a draft plan thereof drawn to scale, together with an application for approval, to the Minister. R.S.O. 1970, c. 349, s. 33 (1).

What draft plan to indicate

(2) The draft plan shall show the boundaries of the land to be subdivided, certified by an Ontario land surveyor, and shall indicate,

(*a*) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;

(*b*) on a small key plan, on a scale of not less than one centimetre to 100 metres, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which the applicant has an interest, and the information specified under clause (*c*);

(*c*) every adjoining subdivision and the relationship thereto of the lands proposed to be subdivided, and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;

(*d*) the purpose for which the lots are to be used;

(*e*) the nature of the existing uses of adjoining land;

(*f*) the approximate dimensions and layouts of the proposed lots;

(*g*) natural and artificial features such as buildings, railways, highways, watercourses, drainage ditches,

swamps and wooded areas within or adjacent to the land proposed to be subdivided, and anything within or adjacent to such land that constitutes a fire hazard to the proposed subdivision;

(*h*) the availability and nature of domestic water supplies;

(*i*) the nature and porosity of the soil;

(*j*) such contours or elevations as may be required to determine the grade of the highways and the drainage of the land;

(*k*) the municipal services available or to be available to the land proposed to be subdivided; and

(*l*) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided. R.S.O. 1970, c. 349, s. 33 (2); 1978, c. 87, s. 21 (1).

Minister to confer

(3) The Minister may then confer with officials of municipalities and ministries of the public service, commissions, authorities and any others who may be concerned and shall settle a draft plan that, in his opinion, will meet all requirements. R.S.O. 1970, c. 349, s. 33 (3); 1972, c. 1, s. 2.

What matters to be regarded

(4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the future inhabitants and to the following,

(*a*) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

(*b*) whether the proposed subdivision is premature or necessary in the public interest;

(*c*) the suitability of the land for the purposes for which it is to be subdivided;

(*d*) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity, and the adequacy thereof;

(*e*) the dimensions and shape of the lots;

(*f*) the restrictions or proposed restrictions, if any, on the land, buildings and structures proposed to be erected thereon and the restrictions, if any, on adjoining lands;

(*g*) conservation of natural resources and flood control;

(*h*) the adequacy of utilities and municipal services;

(*i*) adequacy of school sites;

(*j*) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes. R.S.O. 1970, c. 349, s. 33 (4).

Dedication of land for public and highway purposes

(5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are advisable and, in particular but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition,

(*a*) that land to an amount determined by the Minister but not exceeding 5 per cent of the land included in the plan shall be conveyed to the municipality for park purposes or, if the land is not in a municipality, shall be dedicated for park purposes;

(*b*) that such highways shall be dedicated as the Minister considers necessary;

(*c*) when the subdivision abuts on an existing highway that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister considers necessary; and

(*d*) that the owner of the land enter into one or more agreements with the municipality, or, where the land is not in a municipality, with the Minister, dealing with such matters as the Minister may consider necessary, including the provision of municipal services. R.S.O. 1970, c. 349, s. 33 (5); 1972, c. 118, s. 5 (1); 1974, c. 53, s. 5 (1).

Subdivision agreements

(6) Every municipality and the Minister may enter into agreements imposed as a condition to the approval of a

plan of subdivision and any such agreement may be registered against the land to which it applies and the municipality or the Minister, as the case may be, shall be entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 1974, c. 53, s. 5 (2). R.S.O. 1980, cc. 445, 230

Reference of conditions

(7) Where the owner of the land or the municipality in which the land is situate is not satisfied as to the conditions imposed or to be imposed by the Minister, or any of them, he or it, at any time before the plan of subdivision is finally approved, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister, and the Board shall then hear and determine the question as to the condition or conditions so referred to it, and the decision of the Board in respect of such condition or conditions has the same force and effect as if it were the decision of the Minister. R.S.O. 1970, c. 349, s. 33 (7).

Cash payment in lieu of conveyance

(8) The Minister may authorize, in lieu of the conveyance for park purposes required under subsection (5), the acceptance by the municipality of money to the value of such land required to be conveyed. R.S.O. 1970, c. 349, s. 33 (8); 1972, c. 118, s. 5 (2).

Use and sale of land

(9) Land conveyed to a municipality under subsection (5) shall be used for park or other public recreational purposes but may be sold at any time. 1978, c. 93, s. 4 (1).

Amounts for park purposes paid into special account

(10) The council of a municipality may include in its estimates an amount to be used for the acquisition of lands to be used for park purposes and may pay into the fund provided for in subsection (11) the sum so included in the estimates, and any person may pay any sum into the same fund. R.S.O. 1970, c. 349, s. 33 (10).

Special account

(11) All moneys received by the municipality under subsections (8) and (10) and all moneys received on the sale of land under subsection (9), less any amount expended by the municipality out of its general funds in respect of such land, shall be paid into a special account, and the moneys in such special account shall be expended only for the acquisition of lands to be used for park or other public recreational purposes, for the development or improvement of lands used or to be used for park or other public recreational purposes, including the erection or repair of buildings or other structures thereon or for the maintenance of lands, buildings or structures used for park or other public recre-

ational purposes, including the acquisition of machinery and equipment required for such maintenance, and the moneys in such special account may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account. 1978, c. 93, s. 4 (2).

R.S.O. 1980, c. 512

Approval of draft plan by Minister

(12) Upon settlement of the draft plan, the Minister may give his approval thereto, and may in his discretion withdraw his approval or change the conditions of approval at any time prior to his approval of a final plan for registration. R.S.O. 1970, c. 349, s. 33 (12).

Draft approval to lapse after three years

(13) Where the Minister has not given his approval to a final plan for registration within three years after the date upon which approval to the draft plan was given, the approval of the draft plan shall, unless such approval has prior thereto been withdrawn under subsection (12), thereupon lapse, but the Minister may at any time during such three year period extend the duration of the approval and may from time to time thereafter, prior to the lapsing of the approval, further extend the duration of approval. 1971, c. 2, s. 3 (1).

When draft plan approved

R.S.O. 1980, cc. 493, 445, 230

(14) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with the *Surveys Act* and the *Registry Act* or the *Surveys Act* and the *Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor.

Approval of plan by Minister

(15) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration.

Withdrawal of approval of plan for registration

(16) When a final plan for registration is approved by the Minister under subsection (15) and is not registered within one month of the date of approval, the Minister may withdraw his approval and may require that a new application be submitted.

Duplicates to be deposited and sent to Minister

(17) In addition to any requirement under the *Registry Act* or the *Land Titles Act*, the person tendering the plan of

subdivision for registration shall deposit with the land registrar a duplicate, or when required by the Minister two duplicates, of the plan in the form of linen tracings or transparent linen prints of a type approved by the Minister, and the land registrar shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister.

Saving

(18) Approval of a plan of subdivision by the Minister does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act. R.S.O. 1970, c. 349, s. 33 (13-17).

Proceedings under R.S.O. 1980, c. 369, Minister to be notified

37.—(1) Where an action or proceeding for the partition of land is brought under the *Partition Act*, notice shall be given to the Minister.

Form and service of notice

(2) The notice shall include a copy of the application for the partition of land and shall state the day on which the matter is to be heard, and, subject to the rules of court, shall be served not less than ten days before the day of the hearing.

Right of Minister to be heard

(3) The Minister is entitled as of right to be heard either in person or by counsel notwithstanding that the Crown is not a party to the action or proceeding.

Right of Minister to appeal

(4) Where the Minister appears in person or by counsel, the Minister shall be deemed to be a party to the action or proceeding for the purpose of an appeal and has the same rights with respect to an appeal as any other party to the action or proceeding. 1978, c. 93, s. 5.

Offence re certain land sales

38.—(1) Every person who subdivides and offers for sale, agrees to sell or sells land by a description in accordance with an unregistered plan of subdivision is guilty of an offence and on conviction is liable to a fine of not more than $500.

Interpretation

R.S.O. 1980, cc. 230, 445

(2) In subsection (1), "unregistered plan of subdivision" does not include a reference plan of survey under section 149 of the *Land Titles Act* that complies with the regulations under that Act or a plan deposited under Part II of the *Registry Act* in accordance with the regulations under that Act. R.S.O. 1970, c. 349, s. 34.

PART III

RESTRICTED AREA AND BUILDING BY-LAWS

Restricted area by-laws

39.—(1) By-laws may be passed by the councils of municipalities:

Restricting use of land

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

Restricting erection or use of buildings

2. For prohibiting the erection or use of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.

Marshy lands

3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land where, by reason of its rocky, low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive.

Construction of buildings and structures

4. For regulating the cost or type of construction and the height, bulk, location, size, floor area, spacing, external design, character and use of buildings or structures to be erected within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.

Loading space

5. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway.

Pits and quarries

6. For prohibiting the making or establishment of pits and quarries within the municipality or within any defined area or areas thereof. R.S.O. 1970, c. 349, s. 35 (1).

Minimum area and density provisions

(2) The authority to regulate provided in paragraph 4 of subsection (1) includes and, notwithstanding the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law. 1972, c. 118, s. 6 (1).

Scope of by-law

(3) Any by-law passed under this section may prohibit or regulate all or any of the matters mentioned in subsection (1).

Prohibition of use of land, etc., availability of municipal services

(4) A by-law heretofore or hereafter passed under paragraph 1 or 2 of subsection (1) or a predecessor of such paragraph may prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be.

Certificates of occupancy

(5) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law.

Use of maps

(6) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law, and, upon any application, the Municipal Board may require that land mentioned in the by-law be so defined, and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

Acquisition and disposition of non-conforming lands

(7) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality.

Excepted lands and buildings

(8) No by-law passed under this section applies,

(*a*) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such

land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or

(*b*) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure the plans for which have, prior to the day of the passing of the by-law, been approved by the municipal architect or building inspector, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the erection of such building or structure is commenced within two years after the day of the passing of the by-law and such building or structure is completed within a reasonable time after the erection thereof is commenced.

Restrictions on boundary highways

(9) Where the boundary between two local municipalities is a highway and the council of one only of the municipalities, as to lands abutting on the highway, has passed a by-law for any purpose mentioned in subsection (1) and, for three months after request by the council of such municipality, the council of the other municipality neglects or fails to pass or to take effective proceedings to pass a corresponding by-law, the council of the first-mentioned municipality may apply to the Municipal Board for an order, which the Municipal Board has power to make, declaring that after a date to be named in the order the by-law of the first-mentioned municipality shall apply to the lands abutting on both sides of the boundary highway to the same extent in area for the same purpose and as fully and effectually as if all such abutting lands were described in the by-law and were within the first-mentioned municipality, and, if and when such order is made and becomes effective, the by-law shall be construed and may be enforced accordingly.

Approval by O.M.B.

(10) Subject to subsection (26), no part of any by-law passed under this section comes into force without the approval of the Municipal Board, and such approval may be for a limited period of time only, and the Board may extend such period from time to time upon application made to it for such purpose.

Repeal or amendment

(11) Subject to subsection (26), no part of any by-law that repeals or amends a by-law passed under this section or a predecessor of this section and approved by the Municipal Board, except a by-law passed pursuant to an order of the

Municipal Board made under subsection (23), comes into force without the approval of the Municipal Board.

Notice of application

(12) The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of its application to the Municipal Board for approval of any by-law passed under this section.

Public hearing

(13) Except as provided in subsections (14) and (15), the Municipal Board shall, before approving any by-law passed under this section, hold a public hearing for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Municipal Board.

Notice to provide for filing of objections

(14) The Municipal Board may direct that the notice to be given by the council shall state that anyone objecting to the by-law may, within such time from the giving of the notice as may be prescribed by the Municipal Board, file with the clerk his objection to the by-law.

Dispensing with public hearing

(15) Where notice has been given under subsection (14), the Municipal Board may, when no notice of objection has been filed with the clerk within the time specified in the notice, approve the by-law without holding a public hearing and, if one or more objections have been filed with the clerk within the time specified in the notice, the Municipal Board shall hold a public hearing unless under all the circumstances affecting the matter the Municipal Board considers the objection or, if more than one, all the objections to be insufficient to require a public hearing. R.S.O. 1970, c. 349, s. 35 (2-14).

Notice of application when King's Highway or county highway affected

(16) Where a by-law passed under this section applies to land abutting on the King's Highway or on a highway under the jurisdiction of a county council, the council that passed the by-law shall give to the Ministry of Transportation and Communications or to the clerk of the county council, as the case may be, notice of its intention to apply to the Municipal Board for approval of the by-law. R.S.O. 1970, c. 349, s. 35 (15); 1972, c. 1, s. 100 (2).

Notice of application when lands in adjoining municipality affected

(17) Where a by-law passed under this section applies to land abutting on a boundary between the municipality that passed the by-law and another local municipality, the council that passed the by-law shall give,

(*a*) to the clerk of the other municipality;

(*b*) to the secretary of the planning board, if any, of the other municipality; and

(*c*) to each owner of land in the other municipality abutting on the land to which the by-law applies,

notice of its intention to apply to the Municipal Board for approval of the by-law.

Application to state whether official plan in effect

(18) Every application to the Municipal Board for approval of a by-law passed under this section shall state whether or not the land affected by the by-law is covered by an official plan.

Amendment of by-law pending approval

(19) Where, after an adjournment of the hearing of an application for approval of any by-law passed under this section and prior to the final hearing of the application, the by-law is amended, the Municipal Board may direct that notice of the application for approval of the amended by-law be given in such manner and to such persons as the Municipal Board may direct or may dispense with such notice, and may approve the amended by-law.

Extent of approval

(20) The Municipal Board may approve any such by-law in whole or in part and as to the whole or any part of any land, area or highway therein defined, and the Municipal Board may have regard to the restrictions on any land adjacent to such land, area or highway.

When approval effective

(21) Such approval does not become effective until the issue by the Municipal Board of its formal order thereof.

Extension or enlargement

1941, c. 35

(22) Notwithstanding any other provision of this section, any by-law passed under this section or a predecessor of this section or any by-law deemed to be consistent with this section by subsection 13 (3) of *The Municipal Amendment Act, 1941* may, with the approval of the Municipal Board, be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed.

Appeal

(23) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section, or any by-law deemed to be consistent with this

section by subsection 13 (3) of *The Municipal Amendment Act, 1941*, is refused or the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order. 1941, c. 35

Copies of decision

(24) Where an application has been made to the Municipal Board for the approval of a by-law passed under this section, a copy of the decision of the Municipal Board with respect to the application shall be supplied by the Municipal Board to the applicant and to each person who appeared in person or by counsel at the hearing of the application and who filed with the Municipal Board or the secretary of the Municipal Board a written request for notice of the decision.

Notice of by-law

(25) The Lieutenant Governor in Council may make regulations prescribing the manner of giving notice, the form of the notice, the persons to whom notice shall be given and the time within which objections may be filed with the clerk of the municipality when the council proceeds under subsection (26).

By-law effective where no notice of objection filed

(26) Where an official plan is in effect in a municipality and notice is given in the manner and form and to the persons prescribed by the regulations and no notice of objection has been filed with the clerk of the municipality within the time prescribed by the regulations, the by-law thereupon comes into effect. R.S.O. 1970, c. 349, s. 35 (16-25).

Where notice of objection filed

(27) Where an official plan is in effect in a municipality and notice is given in the manner and form and to the persons prescribed by the regulations and a notice of objection has been filed with the clerk of the municipality within the time prescribed by the regulations, the by-law does not come into effect without the approval of the Municipal Board. 1978, c. 93, s. 6 (1).

Certificate of clerk re notices

(28) A certificate of the clerk of the municipality that the notice has been sent in the manner and form and to the persons prescribed by the regulations and that no notice of objection has been filed with him within the time prescribed by the regulations shall be *prima facie* evidence of the facts stated therein. R.S.O. 1970, c. 349, s. 35 (27).

Approved by-law deemed to conform with official plan

(29) Any by-law approved by the Municipal Board under this section and any by-law that comes into effect under subsection (26) shall be conclusively deemed to be in conformity with the official plan then in effect in the municipality. 1978, c. 93, s. 6 (2).

Use of vacant land for parking

(30) The council of a municipality may, subject to subsections (31) and (32), pass by-laws to permit the use of vacant land for the parking thereon of vehicles where such use is otherwise prohibited by any other by-law passed under this section.

Effective period of by-law

(31) A by-law passed under subsection (30) shall define the area to which it applies and shall prescribe the period for which it shall be in effect, which shall not exceed two years from the date of the passing of the by-law or the period during which the owner of the lands at the time of the passing of the by-law continues to be the owner thereof, whichever is the lesser, and may contain such other provisions as the council considers advisable.

Use of vacant land for parking not non-conforming use

(32) When a by-law passed under subsection (30) ceases to have effect, clause (8) (*a*) does not apply in respect of the use of land permitted by such by-law.

Parking facilities

(33) Any parking facilities provided under a by-law passed under subsection (30) shall be deemed not to be parking facilities required to be provided and maintained by virtue of any other by-law passed under this section. R.S.O. 1970, c. 349, s. 35 (29-32).

Interpretation

40.—(1) In this section, "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot.

Establishment of site plan control by by-law

(2) Where there is an official plan in effect in a municipality, the council of the municipality may, by by-law, designate the whole or any part of the area covered by the official plan as a site plan control area, but nothing herein authorizes the council to designate an area that is not within the limits of the municipality of which it is the council.

Designation of site plan control area

(3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 39.

(4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (9), the Municipal Board has approved one or both, as the council may determine, of the following: Approval of plans or drawings

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (6) (*a*).

2. Drawings showing plan, elevation and cross-section views for each industrial and commercial building to be erected and for each residential building containing twenty-five or more dwelling units to be erected which are sufficient to display,

   (*a*) the massing and conceptual design of the proposed building;

   (*b*) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and

   (*c*) the provision of interior walkways, stairs and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,

   but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause (*c*), the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

(5) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land. Proviso

(6) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to, Conditions to approval of plans

(*a*) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Widenings of highways that abut on the land.

R.S.O. 1980, c. 421

2. Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbings and traffic direction signs.

3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.

4. Walkways, including the surfacing thereof, and all other means of pedestrian access.

5. Facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon.

6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.

7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.

8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewerage facilities on the land.

9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

(*b*) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (*a*), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(*c*) enter into one or more agreements with the municipality dealing with any or all of the facilities, works or matters mentioned in clause (*a*) or with the

provision and approval of the plans and drawings referred to in subsection (4).

Registration of agreements

(7) Any agreement entered into under clause (6) (*c*) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

R.S.O. 1980, cc. 445, 230

Application of R.S.O. 1980, c. 302

(8) Section 325 of the *Municipal Act* applies to any requirements made under clauses (6) (*a*) and (*b*) and to any requirements made under an agreement entered into under clause (6) (*c*).

Appeal to O.M.B.

(9) Where the municipality fails to approve the plans or drawings referred to in subsection (4) within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection (6) or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final.

Classes of development, delegation

(10) Where the council of a municipality has designated a site plan control area under this section the council may, by by-law,

(*a*) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4); and

(*b*) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause (*a*). 1979, c. 59, s. 1.

Conveyance of land for park purposes

41.—(1) As a condition of development or redevelopment of land for residential purposes, the council of a municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding 5 per cent of the land proposed for development or redevelopment be conveyed to the municipality for park purposes.

Interpretation

(2) For the purposes of subsection (3), "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals. 1973, c. 168, s. 10, *part*.

Alternative requirement

(3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), the by-law may require that land be conveyed to the municipality for park purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law. 1973, c. 168, s. 10, *part*; 1978, c. 87, s. 21 (2).

Official plan requirement

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless the municipality has an official plan that contains provisions relating to the provision of lands for park purposes, which provisions have been approved by the Minister subsequent to the coming into force of this section.

Use and sale of land

(5) Land conveyed to a municipality under this section shall be used for park purposes or such other public purposes as are approved by the Minister, but may be sold with the approval of the Minister within a period of five years from the date of the conveyance thereof to the municipality and may, after such period, be sold without the approval of the Minister.

Cash payment in lieu of conveyance

(6) The council of a municipality may accept money to the value of any land required to be conveyed under this section in lieu of such conveyance and the provisions of subsection 36 (11) apply with necessary modifications to all moneys so accepted.

Lands to which by-law not applicable

(7) A by-law passed under this section is not applicable to land that is within a plan of subdivision approved under section 36 if land in the plan was conveyed to the municipality for park or public purposes pursuant to a condition imposed

by the Minister or a payment in lieu of such conveyance was accepted by the municipality. 1973, c. 168, s. 10, *part*.

42.—(1) In this section, Interpretation

(*a*) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;

(*b*) "parcel of land" means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 29 (3) (*b*) or clause 29 (5) (*a*).

(2) Unless otherwise authorized by a by-law in force under section 39 or an order of the Minister made under clause 35 (1) (*a*), no person shall erect or locate or use or cause to be erected, located or used, a mobile home except on a parcel of land as defined in clause (1) (*b*), and in no case except as otherwise so authorized shall any person erect, locate or use or cause to be erected, located or used more than one mobile home on any such parcel of land. One mobile home per parcel of land

(3) This section does not apply to prevent the continued use in the same location of any mobile home that, Saving

(*a*) is erected or located and in use prior to the 1st day of June, 1977; or

(*b*) is erected or located in accordance with a building permit issued prior to the 1st day of June, 1977.

(4) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than $1,000. Offence

(5) In addition to any other remedy or penalty provided by law, any contravention of this section may be restrained by action at the instance of the Minister or the municipality in which the contravention took place or any adjoining municipality or any ratepayer of any such municipality or adjoining municipality and, where the contravention took place in territory without municipal organization, the action may be taken at the instance of the Minister or any resident of such territory or any adjoining municipality or any ratepayer of any adjoining municipality. 1976, c. 38, s. 3. Right to restrain

Interpretation

43.—(1) In this section,

(*a*) "committee" means a property standards committee established under this section;

(*b*) "occupant" means any person or persons over the age of eighteen years in possession of the property;

(*c*) "officer" means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;

(*d*) "owner" includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

(*e*) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;

(*f*) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in a by-law passed under this section.

Adoption of policy statement

(2) Where there is no official plan in effect in a municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement, containing provisions relating to property conditions.

Standards of maintenance and occupancy

(3) If,

(*a*) an official plan that includes provisions relating to property conditions is in effect in a municipality; or

(*b*) the council of a municipality has adopted a policy statement as mentioned in subsection (2),

the council of the municipality may pass a by-law,

(*c*) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform to the standards;

(*d*) for requiring property that does not conform to the standards to be repaired and maintained to conform to the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

(*e*) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

Inspection

(4) When a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.

Entry into dwelling place

(5) An officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

R.S.O. 1980, c. 400

Notice of violation

(6) If, after inspection, the officer is satisfied that, in some respect, the property does not conform to the standards prescribed in the by-law he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to the owner of the property and all persons shown by the records of the land registry office and the sheriff's office to have any interest therein a notice containing particulars of the non-conformity and may, at the same time, provide all occupants with a copy of such notice.

Contents of order

(7) After affording any person served with a notice provided for by subsection (6) an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing,

(*a*) the municipal address or the legal description of such property;

(*b*) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a

graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and

(*c*) the final date for giving notice of appeal from the order.

Order to be sent to last known address

(8) A notice or an order under subsection (6) or (7), when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

Substituted service

(9) If the officer is unable to effect service under subsection (6) or (7), he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

Registration of notice

(10) An order under subsection (7) may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the date on which the order was served under subsection (7) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of such order.

Property standards committee

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such number of ratepayers in the municipality, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

Member and employees of municipality, etc., not eligible

(12) A member of the council of the municipality or an employee of the municipality or of a local board thereof is not eligible to be a member of a committee, but a teacher employed by a board of education or school board is not deemed to be an "employee" for the purpose of this section.

Chairman

(13) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint

another member to act as chairman *pro tempore* and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

Remuneration

(14) The members of the committee shall be paid such compensation as the council may provide.

Filing of documents, etc.

(15) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents. R.S.O. 1980, c. 302

Quorum and procedure

(16) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection (18) shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

Appeal to committee

(17) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the secretary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed.

Decision on appeal

(18) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

Appeal to judge

(19) The municipality in which the property is situate or any owner or occupant or person affected by a decision under subsection (18) may appeal to a judge of the county or district court of the judicial district in which the property is situate by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and,

(*a*) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;

(*b*) the appointment shall be served in the manner prescribed; and

(*c*) the judge on such appeal has the same powers and functions as the committee.

Effect of decisions

(20) The order, as deemed to have been confirmed under subsection (17), or as confirmed or modified by the committee under subsection (18), or, in the event of an appeal to the judge under subsection (19), as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

Power of corporation to repair or demolish

(21) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies,

(*a*) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and

(*b*) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

Certificate of compliance

(22) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection (3), and the council of a municipality may prescribe a fee payable for such a certificate, where it is issued at the request of the owner.

Enforcement

(23) A by-law passed under the authority of this section may impose a penalty of not more than $500 upon an owner for each day that he is in contravention of an order that is final and binding. 1972, c. 118, s. 7.

Grants or loans for repairs

44.—(1) When a by-law under section 43 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 43 (6) to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council

may prescribe. R.S.O. 1970, c. 349, s. 37 (1); 1972, c. 118, s. 8 (1); 1973, c. 168, s. 11.

Loans collected as taxes, lien on land

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made. R.S.O. 1970, c. 349, s. 37 (2); 1972, c. 118, s. 8 (2).

Registration of certificate

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged. R.S.O. 1970, c. 349, s. 37 (3).

Interpretation

45.—(1) In this section,

(*a*) "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

(*b*) "residential property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building.

Demolition control areas may be established by by-law

(2) When a by-law under section 43 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless he is the holder of a demolition permit issued by the council under this section.

Council may issue or refuse to issue permit

(3) Subject to subsection (6), where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit.

Appeal to O.M.B.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within one month after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final.

Notice of appeal

(5) The person appealing to the Municipal Board under subsection (4) shall, in such manner and to such persons as the Municipal Board may direct, give notice of the appeal to the Board.

Application for demolition permit where building permit has been issued

(6) Subject to subsection (7), the council shall on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished.

Conditions of demolition permit

(7) A demolition permit under subsection (6) may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property is commenced, and on the condition that on the failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of $20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

Registration of certificate

(8) Where the clerk of the municipality adds a sum of money to the collector's roll under subsection (7), a certificate signed by the clerk setting out the amount of the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon

payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the roll is discharged.

Appeal to O.M.B.

(9) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, he may appeal to the Municipal Board for a variation of the conditions and, where an appeal is brought, the Board shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

Application to council for relief from conditions of demolition permit

(10) Where any person who has obtained a demolition permit under subsection (6) that is subject to conditions under subsection (7) considers that it is not possible to complete the new building within the time specified in the permit or where he is of the opinion that the construction of the new building has become not feasible on economic or other grounds, he may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

Powers of council on application

(11) Where an application is made under subsection (10), the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

Appeal to O.M.B.

(12) Any person who has made application to the council under subsection (10) may appeal from the decision of the council to the Municipal Board within fourteen days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Board and the Municipal Board shall hear the appeal and the Board on the appeal

has the same powers as the council has under subsection (11) and the decision of the Board shall be final.

Offence

(13) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than $20,000 for each dwelling unit contained in the residential property the whole or any portion of which has been demolished or to imprisonment for a term of not more than six months, or to both.

Standards for health and safety remain in force

(14) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situate within an area of demolition control.

Certain proceedings stayed

(15) Subject to subsection (14), an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any by-law under section 43 or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection (4), until the Municipal Board has heard the appeal and issued its order thereon.

Application of s. 46 (1), par. 7

(16) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in paragraph 7 of subsection 46 (1), but the holder of the permit shall comply with the provisions of any by-law passed under that paragraph regulating the removal or wrecking of buildings and structures. 1974, c. 53, s. 6.

Building by-laws

46.—(1) By-laws may be passed by the councils of municipalities:

Size and strength of walls, etc., and production of plans

1. For regulating the size and strength of frame, wooden, brick, stone, cement and concrete walls, and of the foundations and foundation walls, beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees and for the issuing of a permit certifying

to such approval without which permit no building or structure may be erected, altered or repaired, and for authorizing the refusal of a permit for any building or structure that if constructed would be contrary to the provisions of any by-law of the municipality or of a by-law of any other municipality, including a county and a metropolitan municipality, or the laws of Ontario or Canada in force in the municipality.

2. For requiring the interior side of the exterior walls and the ceilings and both sides of the partition walls of buildings, or any class of buildings, to be lathed and plastered or otherwise covered with adequate material. Interior walls and ceilings

3. For authorizing the municipal architect or building inspector to permit, in special cases that in his judgment warrant it, such deviation as he may deem proper from the by-laws regulating the erection of buildings, except by-laws passed under section 39 or a predecessor of that section. Deviations from building by-laws

(*a*) This paragraph applies only to municipalities where the municipal architect or building inspector, as the case may be, is a member or licensee of the Ontario Association of Architects under the *Architects Act* or a member or licensee of the Association of Professional Engineers of the Province of Ontario under the *Professional Engineers Act*. Limited application of paragraph R.S.O. 1980, cc. 26, 394

4. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be considered necessary for ascertaining such levels. Ascertaining levels of cellars, etc.

5. For fixing grade lines of streets; for providing that the levels of cellars and basements on such streets shall bear a relation, fixed in the by-law, to such lines; and for requiring that a ground or block plan of any proposed building be deposited with an officer named in the by-law, before the issue of a building permit for such building, showing the levels of the cellars and basements in relation to the grade lines fixed in the by-law. Establishing grades of streets and levels of basements

Regulation, etc., of heating plant and equipment
R.S.O. 1980, c. 46

6. For regulating, controlling and inspecting, subject to the *Boilers and Pressure Vessels Act*, all hot air, hot water and steam heating plants and equipment, or any classes thereof, and the installation thereof; and for requiring the production of plans of all installations of such plant and equipment and alterations or additions thereto, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for the issuing of a permit certifying to such approval and for requiring that without such permit no such plant and equipment may be installed, altered or added to.

Regulating removal and wrecking of buildings and structures

7. For regulating the removing or wrecking of buildings and structures and the spraying thereof during such work so as to prevent dust or rubbish arising therefrom, and for the issuing of a permit for the removing, wrecking or partial removing or wrecking of buildings and structures without which no building or structure may be removed or wrecked or partially removed or wrecked, and for fixing and charging fees for such permit.

Doors of public buildings
R.S.O. 1980, cc. 130, 498, 321

8. For regulating, subject to the provisions of the *Egress from Public Buildings Act*, the *Theatres Act* and the *Occupational Health and Safety Act*,

(*a*) the size and number of doors, aisles, halls and stairs in and other means of egress from hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement, or for public meetings, and the street gates leading to them;

(*b*) the construction and width of stairways in such buildings, and in factories, warehouses, hotels, boarding and lodging houses;

(*c*) the materials of which and the manner in which stairs and stair-railings shall be constructed, and the strength of walls, beams and joists and their supports in all such buildings; and

(*d*) for requiring the production of the plans of the buildings mentioned in this paragraph now erected or which it is proposed to erect, and for prohibiting the use or erection of them

until the provisions of the by-law are complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

9. For prohibiting and preventing the obstruction by persons or things of the halls, aisles, passageways, alleys or approaches in or leading to any such building during the occupation of it by a public assemblage. Obstruction of halls, aisles, etc.

(a) While any building mentioned in clause (*a*) of paragraph 8 in a city or town is occupied by a public assemblage, the chief of police or any constable of the city or town may enter it to see that the by-law is not being contravened, and may require the removal of any obstruction or of any person standing, sitting or otherwise occupying any hall, aisle, passageway, alley or approach, except for passing to and fro. Powers of police officers as to seeing that by-laws enforced

10. For requiring every owner of land upon which there is erected a building used or intended to be used for commercial purposes to keep in repair any portion of his land lying between the building and the street line that is used by the public as part of the sidewalk on such street. Owner's duty to repair land in front of commercial buildings

11. Subject to the provisions of any other Act requiring fire escapes, for compelling the owners and occupants of buildings more than two storeys in height, except private dwellings, to provide proper fire escapes therefor in such places, of such pattern and mode of construction as may be deemed proper, and for prohibiting the occupation of any such buildings unless such fire escapes are provided. Compelling provision of fire escapes

12. For regulating the construction, alteration or repairs of buildings. Erection of buildings, etc.

13. For prohibiting the erection or placing, within defined areas, of buildings or additions to them without foundations and foundation walls or with external and party walls other than of brick, portland cement, concrete, steel, stone, tile, terracotta or other incombustible material or of one or more of such materials or other than partly of one or more of such materials and partly of other materials as the by-law may prescribe and also prohibiting roofing of other than incombustible material; provided, Kind of walls

however, that such by-laws may allow, in defined areas, buildings for prescribed purposes to be erected or placed not exceeding a prescribed size or height having walls of other than such materials or partly of one or more thereof and partly of other materials as the by-law may provide, with roofing of such materials as the council may determine according to the intended use of such buildings, and such by-laws may prohibit the erection or placing of more than the prescribed number of such buildings on any one lot or parcel of land.

(*a*) "Incombustible material" as applied to roofing in this paragraph means the material prescribed by the by-law with reference to each defined area.

(*b*) For the purposes of this paragraph, any area or areas in the municipality may be defined by the use of maps attached to the by-law, and the information shown on such maps forms part of the by-law to the same extent as if included therein.

Repairs to existing buildings

14. For regulating the repairing or alteration of roofs or the external walls of existing buildings within such areas, so that the buildings may be as nearly as practicable fire proof.

Pulling down, etc., buildings illegally erected

15. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling down buildings in ruinous state

16. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection that, by reason of its ruinous or dilapidated state, faulty construction or otherwise, is in an unsafe condition as regards danger from fire or risk of accident.

Inspecting and regulating electric wires, etc.

17. For regulating and inspecting wires and other apparatus placed or used for the transmission of electricity for any purpose in or along any highway or on or in any building, and for requiring any such wire or other apparatus that is deemed unsafe or dangerous to be removed or repaired at the expense of the person to whom it belongs or who is using it.

18. For regulating the construction of chimneys, flues, fireplaces, stoves, ovens, boilers or other apparatus or things that may be dangerous in causing or promoting fire, and for removing at the expense of the owner any of them constructed in contravention of the by-law. Construction of chimneys, fireplaces, etc.

19. For regulating the construction as to dimensions and otherwise of chimneys. Construction of chimneys

20. For regulating and enforcing the erection of party walls. Erection of party walls

21. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them. Construction of cellars, drains, etc.

22. For requiring, Control of termites

(*a*) any building or structure or any class or classes thereof heretofore or hereafter erected or any additions thereto to be rendered resistant to infestation by termites and other wood-destroying insects;

(*b*) the repair of any part of any building or structure or any class or classes thereof that has been damaged by termites or other wood-destroying insects;

(*c*) the removal and destruction of all wooden poles, trees, stumps or other wooden or cellulose material that is not part of a building if they are certified by the building inspector or commissioner to be infested by termites or other wood-destroying insects.

23. For providing for the payment by the municipality, not to exceed in any case $250, of not more than one-half of the cost, Cost of control of termites and repairs

i. of repairing any damage done to any building or structure or any class or classes thereof by termites or other wood-destroying insects; and

ii. of rendering resistant to infestation by termites or other wood-destroying insects any

building or structure or any class or classes thereof that were erected before a by-law is passed under this paragraph,

and for providing for the making of loans to the owners of such buildings or structures to pay for the whole or any part of the cost of such repairs or of the rendering resistant to such infestation, less any amount paid by the municipality, on such terms and conditions as the council may prescribe.

(*a*) The amount of any loan made under a by-law passed under this paragraph, together with interest at a rate not exceeding 5 per cent per annum, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

(*b*) A certificate of the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this paragraph, including the rate of interest thereon, together with a description sufficient to identify the land in respect of which the loan has been made, shall be registered in the proper land registry office against the land upon proof by affidavit of the signature of the clerk, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate of the clerk showing such repayment shall be similarly registered, and thereupon the lands are freed from all liability with reference thereto.

Building codes

24. For the purposes of any by-law passed under this section or a predecessor of this section, for adopting with such changes as the council may consider necessary by including in the by-law in whole or in part the National Building Code of Canada and in whole or in part any code or standards adopted, made or sponsored by the Canadian Standards Association, the Canadian Government Specifications Board, the American Society for Testing Materials or any other such body and approved by the National Research Council (Canada).

25. For requiring that public buildings to be erected, constructed or altered in the municipality be designed by and the specifications therefor be prescribed by and the erection, construction and alteration thereof be controlled and supervised by a member or licensee of the Ontario Association of Architects under the *Architects Act* or a civil engineer who is a member or licensee of the Association of Professional Engineers of the Province of Ontario under the *Professional Engineers Act*. Supervision of erection of public buildings R.S.O. 1980, cc. 26, 394

(*a*) In this paragraph, "public buildings" means arenas, armouries, amusement park structures, bleachers, bowling alleys, churches, club buildings, community halls, court rooms, curling rinks, dance halls, exhibition buildings, grandstands, gymnasiums, libraries, lodge rooms, museums, passenger stations and depots, recreation piers, reviewing stands, schools, skating rinks, stadia, swimming pool buildings and structures, theatres and other buildings and structures that are to be used or offered for use as places of public assembly. Interpretation

26. For requiring persons, Certificate of compliance and prohibiting use of buildings not in compliance with by-laws

(*a*) who have caused a building or structure to be erected, altered or repaired without having first obtained a permit so to do where such a permit is required; or

(*b*) who having obtained a permit have caused a building or structure to be erected, altered or repaired contrary to the approved plans in respect of which the permit was issued,

to make such buildings comply with the by-laws of the municipality if they do not so comply and in any case to obtain a certificate of compliance from the building inspector and for charging fees for such certificates and for prohibiting the use of such a building or structure by such persons until a certificate of compliance has been obtained.

(2) A by-law passed by the council of a township under any paragraph of subsection (1) may be made applicable to the township or one or more defined areas thereof as set out in the by-law. R.S.O. 1970, c. 349, s. 38. Township by-laws

Building inspector

47. The council of a county may enter into an agreement with one or more local municipalities for the appointment by the county of a building inspector for the administration of by-laws passed under section 46 by such local municipalities and for charging such municipalities the whole or part of the cost of such building inspector. R.S.O. 1970, c. 349, s. 39.

PART IV

COMMITTEES OF ADJUSTMENT

Establishment of committees of adjustment

48.—(1) If a municipality has passed a by-law under section 39 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not less than three, as the council considers advisable. R.S.O. 1970, c. 349, s. 41 (1); 1972, c. 118, s. 9.

When by-law in force

(2) A by-law passed under subsection (1) does not come into effect until thirty days after a certified copy thereof has been sent to the Minister by registered mail by the clerk of the municipality. 1971, c. 2, s. 4.

Interpretation

(3) In subsection (4), "employee" does not include a teacher employed by a board of education or school board.

Members and employees of municipality, etc., not eligible

(4) A member of the council of the municipality or an employee of the municipality or of a local board thereof is not eligible to be a member of a committee of adjustment.

Term of office

(5) Appointments to the committee shall be for a term of three years, except that on the first appointment the council shall designate members who shall hold office,

(*a*) until the 1st day of January of the year following the date of appointment;

(*b*) until the 1st day of January of the second year following the date of appointment; and

(*c*) until the 1st day of January of the third year following the date of appointment,

respectively, so that as nearly as possible one-third of the members shall retire each year.

Idem

(6) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term. R.S.O. 1970, c. 349, s. 41 (2-5).

Quorum

(7) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum. 1973, c. 168, s. 12.

Vacancy not to impair powers

(8) Subject to subsection (7), a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

Chairman

(9) The members of the committee shall elect one of themselves as chairman, and, when the chairman is absent through illness or otherwise, the committee may appoint another member to act as chairman *pro tempore*.

Employees

(10) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is considered expedient, within the limits of the moneys appropriated for the purpose.

Remuneration

(11) The members of the committee shall be paid such compensation as the council may provide.

Filing of documents, etc.

(12) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of the *Municipal Act* applies with necessary modifications to such documents.

R.S.O. 1980, c. 302

Rules of procedure

(13) In addition to compying with the requirements imposed upon the committee by this Act, the committee shall comply with such rules of procedure as are prescribed by the Minister by regulation. R.S.O. 1970, c. 349, s. 41 (7-12).

Powers of committee, general

49.—(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that implements an official plan or is passed under section 39, or a predecessor of such section, or any person authorized in writing by the owner, may, notwithstanding any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion

is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.

special

(2) In addition to its powers under subsection (1), the committee, upon any such application,

(*a*) where any land, building or structure, on the day the by-law was passed, was used for a purpose prohibited by the by-law and such use has continued until the date of the application to the committee, may permit,

(i) the enlargement or extension of the building or structure, provided that the land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day the by-law was passed, and provided that no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the land, building or structure continues to be used in the same manner and for the same purpose as is authorized by the decision of the committee; or

(*b*) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

Power of committee to give consent

(3) In addition to its powers under subsections (1) and (2) and subject to section 31, the committee, upon the application of the owner of any land or any person authorized in writing by such owner, may, notwithstanding any other Act, give a consent as mentioned in section 29, provided that the committee is satisfied that a plan of subdivision under section 36 of the land described in the application is not

necessary for the proper and orderly development of the municipality.

Time for hearing

(4) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer.

Notice of hearing

(5) The committee, before hearing an application, shall give notice thereof in such manner and to such persons as the committee considers proper. R.S.O. 1970, c. 349, s. 42 (1-5).

Tariff of fees

(6) The committee may prescribe a tariff of fees payable in respect of applications made to it, which may vary according to the type of the application, but in no case shall the fee payable on any application be more than $50. R.S.O. 1970, c. 349, s. 42 (6); 1971, c. 2, s. 5.

Hearing

(7) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.

Oaths

(8) The chairman, or in his absence the acting chairman, may administer oaths.

Decision

(9) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.

Conditions in decision

(10) Any authority or permission granted by the committee under subsections (1) and (2) may be for such time and subject to such terms and conditions as the committee considers advisable and as are set out in the decision. R.S.O. 1970, c. 349, s. 42 (7-10).

Notice of decision

(11) The secretary-treasurer shall send by mail one copy of the decision, certified by him,

(*a*) to the Minister if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee;

(*b*) to the applicant; and

(*c*) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

Additional material

(12) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection (11), he shall also send to the Minister with such copy, the following:

1. A copy of the application to the committee certified by the secretary-treasurer.

2. A copy of the draft minutes of the hearing by the committee as prepared for adoption by the committee.

3. A copy of all maps or sketches that were before the committee on the hearing of the application and that show the land, building or structure that was the subject-matter of the application.

4. A sworn declaration by the secretary-treasurer that he has complied with the requirements of subsection (11). 1976, c. 64, s. 6 (1).

Appeal

(13) The applicant, the Minister or any other person who has an interest in the matter may appeal to the Municipal Board against the decision of the committee by serving personally on or sending by registered mail to the secretary-treasurer of the committee notice of appeal accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under the *Ontario Municipal Board Act* as payable on an appeal from a committee of adjustment to the Board, within twenty-one days after the sending of the notice under subsection (11).

R.S.O. 1980, c. 347

Idem

(14) The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection (13) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (13) to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Municipal Board. 1972, c. 118, s. 10 (1).

Where no appeal

(15) If within such twenty-one days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality. R.S.O. 1970, c. 349, s. 42 (14); 1972, c. 118, s. 10 (2).

Hearing

(16) On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine. 1976, c. 64, s. 6 (2).

Powers of Municipal Board

(17) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.

Costs

(18) The costs on the appeal are in the discretion of the Municipal Board. R.S.O. 1970, c. 349, s. 42 (16, 17).

Notice of decision

(19) When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

Idem

(20) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality. 1976, c. 64, s. 6 (3).

Certificate that consent given

(21) When a consent has been granted on an application under subsection (3), the secretary-treasurer shall, after the decision of the committee is final and binding under subsection (15), give a certificate to the applicant stating that such consent has been given, and the certificate is conclusive evidence that such consent was given and that the provisions of this Act leading to such consent have been complied with and that, notwithstanding any other provision of this Act, the committee had jurisdiction to grant such consent and after the certificate has been given no action may be maintained to question the validity of such consent. R.S.O. 1970, c. 349, s. 42 (20); 1978, c. 93, s. 7.

PART V

GENERAL

Right to restrain

50. In addition to any other remedy or penalty provided by law, any contravention of a by-law that implements an official plan and any contravention of section 19 may be restrained by action at the instance of the planning board of the planning area in which the contravention took place or any municipality within or partly within such planning area or any ratepayer of any such municipality, and any contravention of an order of the Minister made under section 35 may be restrained by action at the instance of the Minister or the planning board of the planning area in

which the contravention took place or the municipality in which the contravention took place or any adjoining municipality or any ratepayer of any such municipality or adjoining municipality. 1978, c. 93, s. 8.

Reference to O.M.B.

51.—(1) When under this Act the approval or consent of the Minister is applied for, the Minister may, and upon application therefor shall, refer the matter to the Municipal Board unless, in his opinion, such request is not made in good faith or is frivolous or is made only for the purpose of delay and, when the Minister has referred the matter to the Municipal Board, the approval or consent, as the case may be, of the Municipal Board has the same force and effect as if it were the approval or consent of the Minister.

Effect of approval

(2) When under this Act the approval or consent of the Minister is given, the signature of the Minister or the seal of the Municipal Board, as the case may be, by which the approval or consent is evidenced is conclusive evidence that the provisions of this Act leading to such approval or consent have been complied with.

Application where draft plan approved

(3) Where a draft plan of subdivision has been approved under subsection 36 (12), subsection (1) does not apply to the approval of the plan of subdivision under subsection 36 (15). R.S.O. 1970, c. 349, s. 44.

Resumption by Minister of matter referred to O.M.B.

52. When under this Act the Minister has referred a matter to the Municipal Board the matter may be taken back from the Board by the Minister at any time prior to a decision in respect thereof having been made by the Board, provided however that where a matter has been referred to the Board pursuant to the request of any person the matter shall not be taken back from the Board by the Minister except on the further request of such person and with the concurrence of all other persons, if any, who had requested that the matter be referred to the Board. 1974, c. 53, s. 7.

Interpretation

53.—(1) Notwithstanding clauses 1 (*a*) and (*g*), "council" for the purposes of this section and sections 54 and 55 means,

(*a*) the council of a city, town, village, township or county that has been designated by order of the Minister as a municipality to which may be delegated any of the Minister's authority under this Act; and

(*b*) the council of a metropolitan, regional or district municipality. 1974, c. 53, s. 8, *part*.

Delegation of Minister's powers

(2) The Minister on the request of a council may by order delegate to the council any of the Minister's authority under this Act, under section 50 of the *Condominium Act*, R.S.O. 1980, cc. 84, 302, 445, 230 under subsection 298 (11) and subsection 306 (2) of the *Municipal Act*, under subsection 82 (3) of the *Registry Act* and under section 145 of the *Land Titles Act* and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. 1978, c. 93, s. 9.

Conditions

(3) A delegation made by the Minister under subsection (2) may be subject to such conditions as the Minister may by order provide.

Withdrawal of delegation of powers

(4) The Minister may by order withdraw any delegation made under subsection (2) and, without limiting the generality of the foregoing, such withdrawal may be either in respect of one or more applications for approval specified in the order or in respect of any or all applications for approval made subsequent to the withdrawal of the delegation and immediately following any such withdrawal the council shall forward to the Minister all papers, plans, documents and other material in the possession of the municipal corporation that relate to any matter in respect of which the authority was withdrawn and of which a final disposition was not made by the council prior to such withdrawal. 1973, c. 168, s. 13, *part*.

Further delegation of powers

54.—(1) Where the Minister has delegated any authority to a council under section 53, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans and amendments thereto, to an appointed officer identified in the by-law either by name or position occupied and such officer has, in lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Conditions

(2) A delegation made by a council under subsection (1) may be subject to such conditions as the council may by by-law provide and as are not in conflict with any conditions provided by order of the Minister under section 53.

Withdrawal of delegation of powers

(3) A council may by by-law withdraw any delegation made under subsection (1) and the provisions of subsection 53 (4) apply with necessary modifications. 1973, c. 168, s. 13, *part*.

Notice of decision

55.—(1) Where a decision is made by a council or an appointed officer on an application in respect of which the power of approval was delegated under section 53 or 54, notice of the decision shall be sent to the applicant and to each person who prior to the making of the decision requested in writing notice of the decision.

No approval while appeal pending

(2) Where there is an appeal under subsection (3), the council or appointed officer, as the case may be, shall not approve the application to which the appeal relates and in no event shall an application be approved until after the time for appeal provided in subsection (3) has expired.

Appeal to O.M.B.

(3) The applicant and each person who requested written notice of the decision referred to in subsection (1) may appeal to the Municipal Board against the decision by serving personally on or sending by registered mail to the clerk of the municipality in which the council or appointed officer has jurisdiction notice of appeal accompanied by payment to the clerk of the fee prescribed by the Municipal Board under the *Ontario Municipal Board Act*, as payable on an appeal to the Municipal Board, within twenty-one days after the day on which the notice was sent under subsection (1).

R.S.O. 1980, c. 347

Application where draft plan approved

(4) Where a draft plan of subdivision has been approved under subsection 36 (12), subsection (3) does not apply to the approval of the plan of subdivision under subsection 36 (15).

Material to be forwarded to O.M.B.

(5) The clerk of the municipality, upon receipt of a notice of appeal served on or sent to him under subsection (3), shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (3) to the Municipal Board by registered mail together with all papers, plans, documents and other material filed with the council or appointed officer, as the case may be, relating to the matter appealed from and such other papers and documents as may be required by the Municipal Board.

Hearing by O.M.B.

(6) On an appeal to the Municipal Board under subsection (3), the Municipal Board shall hold a hearing of which notice shall be given to the applicant, the clerk of the municipality as referred to in subsection (3) and to such other persons and in such manner as the Municipal Board may determine.

(7) The Municipal Board may dismiss the appeal or may make any decision that the council or appointed officer could have made on the application. 1973, c. 168, s. 13, *part*. Powers of O.M.B.

56. The Minister may make regulations prescribing rules of procedure for committees of adjustment and land division committees constituted under this Act. R.S.O. 1970, c. 349, s. 45. Regulations

57.—(1) Subsection 39 (11) does not apply to a by-law that amends a by-law only to express a word, term or measurement in the by-law in a unit of measurement set out in Schedule I of the *Weights and Measures Act* (Canada) in accordance with the definitions set out in Schedule II of that Act and that, Application of s. 39 (11) R.S.C. 1970, c. W-8

(*a*) does not round any measurement so expressed further than to the next higher or lower multiple of 0.5 metres or 0.5 square metres, as the case may be; or

(*b*) does not vary by more than 5 per cent any measurement so expressed.

(2) Any land, building or structure that otherwise conforms with a by-law passed under section 39 or an order made by the Minister under section 35 does not cease to conform with the by-law or order by reason only of an amendment to the by-law or order that conforms with subsection (1). 1978, c. 87, s. 21 (3). Effect of amendment that conforms with subs. (1)

58. In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail. R.S.O. 1970, c. 349, s. 46. Conflict

CHAPTER 380

Plant Diseases Act

Interpretation

1. In this Act,

(*a*) "Board" means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980, c. 270

(*b*) "dealer in nursery stock" means a person who has for sale plants that were propagated at a nursery and that are kept in the soil of the premises on which they are for sale;

(*c*) "Director" means the Director appointed under this Act;

(*d*) "inspector" means an inspector appointed under this Act, and includes a municipal inspector;

(*e*) "licence" means a licence under this Act;

(*f*) "Minister" means the Minister of Agriculture and Food;

(*g*) "nursery" means any place where fruit trees, fruit stock or ornamental plants are propagated for sale;

(*h*) "plant" means any tree, shrub, vine, tuber, bulb, corm, rhizome or root, or the fruit of any other part of any of them;

(*i*) "plant disease" means any disease or injury of a plant that is caused by an insect, virus, fungus, bacterium or other organism and that is designated a plant disease in the regulations;

(*j*) "Provincial Entomologist" means the Provincial Entomologist appointed under this Act;

(*k*) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 350, s. 1; 1971, c. 50, s. 67 (1); 1978, c. 100, s. 18 (1).

Sale, etc., of diseased plants

2. No person shall transport or ship from a nursery or premises of a dealer in nursery stock, sell, offer for sale, or

have in his possession for sale at a nursery or at premises of a dealer in nursery stock, any plant having a plant disease. R.S.O. 1970, c. 350, s. 2.

Nursery licence required

3.—(1) No person shall operate a nursery without a licence therefor from the Director.

Dealer licence required

(2) No person, other than a person licensed to operate a nursery, shall be a dealer in nursery stock without a licence therefor from the Director. 1971, c. 50, s. 67 (2).

Director, Provincial Entomologist and inspectors

4. The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act and may appoint a Provincial Entomologist and one or more inspectors who shall carry out such duties as are assigned to them by this Act or by the regulations or the Director. R.S.O. 1970, c. 350, s. 4.

Licence, issue

5.—(1) The Director shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

Renewal

(2) Subject to section 6, the Director shall renew a licence on application by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1971, c. 50, s. 67 (3), *part*.

Refusal to renew, suspension or revocation

6.—(1) The Director may refuse to renew or may suspend or revoke a licence if, after a hearing, he is of opinion that the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction in connection with his business of operating a nursery or dealing in nursery stock, to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating a nursery or dealing in nursery stock and such contravention warrants such refusal to renew or suspension or revocation of the licence.

Continuation of licence pending renewal

(2) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal. 1971, c. 50, s. 67 (3), *part*.

Notice of hearing

7.—(1) Notice of a hearing by the Director under section 5 or 6 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings under section 5 or 6 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 67 (3), *part*.

Variation of decision by Director

8. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1971, c. 50, s. 67 (3), *part*.

Appeal to Board

9.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.

Extension of time for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of decision pending disposal of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the

Director is effective until the appeal is disposed of. 1971, c. 50, s. 67 (3), *part*.

Parties

10.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

R.S.O. 1980, c. 484

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Only members at hearing to participate in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. 1971, c. 50, s. 67 (3), *part*.

Appeal to court

11.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Director or the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1971, c. 50, s. 67 (3), *part*. Effect of decision of Board pending disposal of appeal

12.—(1) The council of any municipality may by by-law designate any disease or injury of plants, whether or not designated a plant disease in the regulations, and the by-law shall, Municipal by-laws

(*a*) appoint one or more municipal inspectors to enforce this Act, the regulations and the by-law in the municipality with respect to every plant disease and disease of plants designated therein;

(*b*) fix the remuneration to be paid to municipal inspectors; and

(*c*) provide for the control or eradication of any disease of plants designated therein.

(2) No by-law passed under subsection (1) takes effect until it is approved by the Minister. Approval of by-laws

(3) Every municipal inspector shall, under the direction of the Provincial Entomologist, carry out in the municipality the provisions of this Act, any by-law passed under subsection (1) and the regulations. Powers and duties of municipal inspectors

(4) For the purposes of sections 13 and 14, a disease of plants that is not designated a plant disease in the regulations and for the control or eradication of which a by-law has been passed under subsection (1) shall be deemed to be a plant disease within the municipality that passed the by-law. Diseases designated in by-law deemed plant diseases

(5) Where a by-law passed under subsection (1) provides for the treatment or destruction by the municipality of any plants located on property that is not owned by or in the possession of the municipality, the municipality may pay any expenses incurred in the treatment or destruction of the plants Payment of costs

out of the general funds of the municipality. R.S.O. 1970, c. 350, s. 5.

Power of entry

13.—(1) Subject to subsection (2), an inspector may, between sunrise and sunset, for the purpose of making an inspection,

(*a*) enter any nursery or premises of a dealer in nursery stock;

(*b*) enter any vehicle owned or operated by or for the owner of a nursery or a dealer in nursery stock;

(*c*) enter any farm, garden, orchard or building in or on which he has reason to believe there are plants;

(*d*) enter any premises in which plants are processed and any premises used in connection therewith and in or on which he has reason to believe there are plants having a plant disease or any containers infested with the causal organisms of any plant disease. R.S.O. 1970, c. 350, s. 6 (1); 1971, c. 50, s. 67 (4).

Power to enter dwelling R.S.O. 1980, c. 400

(2) Except under the authority of a warrant under section 142 of the *Provincial Offences Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant. 1971, c. 50, s. 67 (5).

Obstruction of inspector

(3) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information. R.S.O. 1970, c. 350, s. 6 (2).

Disinfection of diseased plants, etc.

14.—(1) Where an inspector finds a plant disease or any causal organisms of a plant disease in or on any premises or vehicle, he may order the owner, occupier or person in charge of the premises or vehicle,

(*a*) to disinfect any plants, land, building, vehicle or container; or

(*b*) to treat or destroy any plants,

in such manner and within such period of time as the order requires.

Prohibition to grow certain plants

(2) Where an inspector finds any causal organisms of a plant disease in the soil of any premises, he may order that the owner or occupier of the premises shall not grow for such period of time as the order requires such species of plants as may become infected by such causal organisms.

(3) Every order under this section shall be in writing and delivered to the owner, occupier or person in charge of the premises or vehicle by an inspector or sent by prepaid mail to his last or usual place of residence. R.S.O. 1970, c. 350, s. 7. Order

15.—(1) Where the owner, occupier or person in charge of any premises or vehicle deems himself aggrieved by an order of an inspector, he may within five days of the receipt of the order appeal against the order by notice to the Provincial Entomologist. R.S.O. 1970, c. 350, s. 8 (1). Appeal

(2) Upon receipt of a notice of appeal, the Provincial Entomologist shall, after a hearing, confirm, revoke or modify the order appealed against and may make such order as the inspector might have made and the appellant shall carry out such order as is given by the Provincial Entomologist. Powers of Provincial Entomologist on appeal

(3) The appellant, the inspector who made the decision and such other persons as the Provincial Entomologist may specify are parties to proceedings before the Provincial Entomologist under subsection (2). Parties

(4) An appeal under this section may be made in writing or orally or by telephone to the Provincial Entomologist, but the Provincial Entomologist may require the grounds for appeal to be specified in writing before the hearing. 1971, c. 50, s. 67 (6). How appeal made

16.—(1) Except as provided in subsection (2), every person who contravenes any of the provisions of this Act or any by-law passed under subsection 12 (1) or the regulations or any order of an inspector or the Provincial Entomologist is guilty of an offence and on conviction is liable, for a first offence, to a fine of not more than $50 and, for any subsequent offence, to a fine of not less than $25 and not more than $200 or to imprisonment for a term of not more than thirty days. Offences

(2) Every person who contravenes any provision of subsection 13 (3) is guilty of an offence and on conviction is liable, for a first offence, to a fine of not less than $100 and, for any subsequent offence, to a fine of not less than $200. R.S.O. 1970, c. 350, s. 9. Idem

17. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) designating plant diseases within the meaning of this Act;

(*b*) prescribing the duties of the Provincial Entomologist and of inspectors;

(*c*) providing for the issue of licences to operate nurseries and to dealers in nursery stock, and prescribing the the term thereof and the fees to be paid therefor;

(*d*) providing for the establishment of plant disease control areas;

(*e*) providing for the control or eradication of any plant disease in any plant disease control area or in any other area;

(*f*) providing for the issue of certificates as to the freedom from any plant disease of any plants grown in any nursery, farm, garden, orchard or other place or kept on any premises of a dealer in nursery stock;

(*g*) providing for the making of grants by the Minister out of the moneys that are appropriated therefor by the Legislature so as to reimburse any municipality to such extent as is designated for any expense it has been put to under this Act;

(*h*) prescribing forms and providing for their use;

(*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 350, s. 10.

CHAPTER 381

Police Act

1. In this Act, Interpretation

(*a*) "Arbitration Commission" means the Ontario Police Arbitration Commission referred to in section 38;

(*b*) "association" means an association limited to one police force and having among its objects the improvement of conditions of service or remuneration of the members of that force;

(*c*) "board" means a board of commissioners of police;

(*d*) "Commission" means the Ontario Police Commission;

(*e*) "Commissioner" means the Commissioner of the Ontario Provincial Police Force;

(*f*) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 351, s. 1; 1972, c. 1, s. 97 (1); 1972, c. 103, s. 1.

PART I

DIVISION OF RESPONSIBILITY

2.—(1) Every city and town is responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate police force in accordance with the police needs of the municipality. Policing in cities and towns

(2) The Lieutenant Governor in Council may exempt any town having a population of less than 5,000 according to the last municipal census from the application of subsection (1), and such exemption continues in effect until it is revoked. R.S.O. 1970, c. 351, s. 2 (1, 2). Exemption of towns of less than 5,000

(3) Where in special circumstances a municipal police force, in the opinion of the Commission, is not capable of providing adequate policing for any part of the area for which it is Assistance by Ontario Provincial Police Force

responsible, the Solicitor General may authorize the Ontario Provincial Police Force to police such part for such period and on such terms and conditions as the Solicitor General may prescribe. R.S.O. 1970, c. 351, s. 2 (3); 1972, c. 1, s. 97 (2).

Policing in villages and townships

(4) Every village and township which, or any part of which, has a density of population and real property assessment sufficient to warrant the maintenance of a police force and which has been so designated by the Lieutenant Governor in Council upon the recommendation of the Solicitor General is, with regard to the municipality or part thereof, as the case may be, responsible for the policing and maintenance of law and order and for providing and maintaining an adequate police force in accordance with the police needs of the municipality or part thereof. R.S.O. 1970, c. 351, s. 2 (4); 1972, c. 1, s. 97 (2).

Special circumstances

(5) Where by reason of the establishment of any enterprise or because for any other reason special circumstances or abnormal conditions exist in any area that in the opinion of the Solicitor General would render it inequitable that the responsibility for policing should be imposed on any municipality or on the Province, the Lieutenant Governor in Council may designate such area a special area and may require any company operating such enterprise or being the owner of such area to enter into an agreement under section 64, for the policing of such area. R.S.O. 1970, c. 351, s. 2 (5); 1972, c. 1, s. 97 (2).

Responsibility of Ontario Provincial Police Force

3.—(1) The Ontario Provincial Police Force is responsible for policing all that part of Ontario that is not in a municipality or part of a municipality referred to in section 2, but the Ontario Provincial Police Force is not responsible for policing any part of Ontario in which a municipal police force is maintained.

Idem

(2) For the purpose of subsection (1), municipal law enforcement officers shall not be deemed to be a municipal police force. R.S.O. 1970, c. 351, s. 3 (1, 2).

Additional duties of Ontario Provincial Police Force

(3) The Ontario Provincial Police Force, in addition to performing the policing services prescribed in subsection (1), shall,

(*a*) maintain a traffic patrol,

(i) on the King's Highway, except such portions thereof as are designated by the Solicitor General, and

(ii) on such connecting links, within the meaning of the *Public Transportation and Highway Improvement Act*, as are designated by the Solicitor General; R.S.O. 1980, c. 421

(*b*) enforce the *Liquor Licence Act* and the regulations thereunder and any other laws designated by the Solicitor General; and R.S.O. 1980, c. 244

(*c*) maintain a criminal investigation branch which shall be used to assist municipal police forces on the direction of the Solicitor General or at the request of the Crown attorney. R.S.O. 1970, c. 351, s. 3 (3); 1971, c. 61, s. 1; 1972, c. 1, s. 97 (2), *revised*.

Methods of establishing municipal police forces

4.—(1) The obligation of a municipality to provide and maintain a police force may be discharged,

(*a*) by the appointment of the members of the police force by the board of commissioners of police under section 15;

(*b*) by the appointment of the members of the police force by the council under section 20; or

(*c*) by entering into an agreement under section 63 or 64,

and not otherwise.

Municipality to provide own policing

(2) Members appointed under clause (1) (*a*) or (*b*) shall be paid directly by the municipal council of the municipality for which they are appointed.

Exceptions with approval of Commission

(3) In exceptional cases, the Commission may approve of a system of policing that does not comply with this section. R.S.O. 1970, c. 351, s. 4.

Failure to provide police

5. Where the Commission finds that a municipality mentioned in section 2 does not maintain a police force and is not provided with police services pursuant to an agreement under section 63 or 64, the Commission may request the Commissioner to secure the proper policing of the municipality by the Ontario Provincial Police Force, and the cost thereof shall be charged to the municipality and may be deducted from any grant payable out of provincial funds to the municipality or may be recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1970, c. 351, s. 5.

Failure to provide adequate policing or to comply with Act or regulations

6.—(1) Where the Commission finds that a municipality mentioned in section 2, or any other municipality that maintains its own police force, is not providing or maintaining an adequate police force or not complying with this Act or the regulations, it may communicate with the clerk of the municipality and, where there is a board, the board, indicating that the police force is not adequate or that the provisions of this Act or the regulations are not being complied with and requesting the council of the municipality and, where there is a board, the board, to take such steps as the Commission considers necessary.

Action by Commissioner

(2) Where the council or the board neglects to comply with a request made under subsection (1), the Commission may request the Commissioner to secure the proper policing of the municipality by the Ontario Provincial Police Force, and the cost thereof shall be charged to the municipality and may be deducted from any grant payable out of provincial funds to the municipality or may be recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1970, c. 351, s. 6.

Where company fails to enter into agreement

7. Where an area has been designated under subsection 2 (5) and the company required to enter into an agreement under section 64 refuses or neglects to enter into an agreement, the Ontario Provincial Police Force shall police the area and the cost thereof may be recovered with costs from the company by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1970, c. 351, s. 7.

PART II

MUNICIPAL POLICE FORCES

Creation of board

8.—(1) Notwithstanding any special Act, every municipality that provides and maintains a police force and that has a population of more than 15,000 according to the last municipal census shall have a board, and,

(*a*) any county or town having a population of 15,000 or less according to the last revised assessment roll;

(*b*) any village or township having a population of more than 5,000 and not more than 15,000 according to the last revised assessment roll; and

(*c*) with the consent of the Solicitor General, any village or township having a population of 5,000 or less according to the last revised assessment roll,

that provides and maintains a police force may, by by-law, constitute a board. R.S.O. 1970, c. 351, s. 8 (1); 1972, c. 1, s. 97 (2).

Composition of board

(2) The board, except as provided in subsection (3), shall consist of,

(*a*) the head of the council; and

(*b*) two persons appointed by the Lieutenant Governor in Council. 1979, c. 74, s. 1 (1).

Vacancies

(3) Where a vacancy occurs on the board by reason of the death of a member appointed by the Lieutenant Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Solicitor General may in writing appoint some other person to act as a member of the board for a period of six months from the date of such appointment, unless the Lieutenant Governor in Council sooner appoints another member.

Remuneration

(4) The council shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations, to the members of the board appointed by the Lieutenant Governor in Council or the Solicitor General and may provide for the payment of an allowance to the head of the council. 1979, c. 74, s. 1 (2).

Powers to contract and sue

(5) A board may contract and may sue and be sued in its own name, and the members thereof are not personally liable upon any contract made by the board. R.S.O. 1970, c. 351, s. 8 (5).

Joint boards, establishment

9.—(1) Notwithstanding any special Act, any two or more municipalities having a combined population of more than 5,000 according to their last revised assessment rolls may, if authorized so to do by by-law of their respective councils, by agreement constitute a board. R.S.O. 1970, c. 351, s. 9 (1).

Composition of board

(2) A joint board established under subsection (1) shall consist of,

(*a*) the head of the council of each of the municipalities; and

(*b*) such other persons as the Lieutenant Governor in Council may appoint. 1979, c. 74, s. 2.

Application of other provisions of Act

(3) All other provisions of this Act applicable to boards apply with necessary modifications to boards established under this section. R.S.O. 1970, c. 351, s. 9 (3).

Meetings

10.—(1) The board shall in each year hold such meetings as are prescribed by the regulations and shall at its first meeting in each year elect a chairman.

Quorum

(2) A majority of the members of the board constitutes a quorum.

Meetings open to public

(3) The meetings of the board shall be open to the public unless otherwise directed by the board. R.S.O. 1970, c. 351, s. 10.

Repeal of by-law

11.—(1) The by-law of a village, township, county or town constituting a board may, with the consent of the Solicitor General, be repealed and, if so repealed, the board is dissolved on the 1st day of January next after the passing of the repealing by-law. R.S.O. 1970, c. 351, s. 11 (1); 1972, c. 1, s. 97 (2).

Idem, joint boards

(2) Where a board is constituted under section 9, the by-laws of the municipalities constituting the board may, with the consent of the Solicitor General, be repealed and, if so repealed, the board is dissolved on the 1st day of January next after the passing of the repealing by-law. R.S.O. 1970, c. 351, s. 11 (2); 1972, c. 1, s. 97 (2).

By-law

12.—(1) A by-law of a board is sufficiently authenticated if signed by its chairman or acting chairman, and a by-law purporting to be so signed shall be received in evidence in all courts without proof of the signature.

Certified copy of by-law

(2) A copy of a by-law purporting to be certified by a member of the board to be a true copy shall be received in evidence in all courts without proof of the signature. R.S.O. 1970, c. 351, s. 12.

Board to summon witnesses

13. A board has the same power to summon and examine witnesses on oath as to any matter connected with the execution of its duties, to enforce their attendance, and to compel them to give evidence, as is vested in any court of law in civil cases. R.S.O. 1970, c. 351, s. 13.

Composition of police force

14.—(1) Subject to subsection (3) and to clause 42 (*g*), the police force in a municipality having a board shall consist of a chief of police and such other police officers and such constables, assistants and civilian employees as the board considers adequate, and shall be provided with such accommodation, arms, equipment, clothing and other things as the board considers adequate.

Estimates

(2) Every board shall, on or before the 1st day of March in each year, prepare and submit to the council or each council responsible for maintaining the force, for its consideration and approval its estimates of all moneys required for the year to pay the remuneration of the members of the police force and to provide and pay for the accommodation, arms, equipment and other things for the use and maintenance of the force.

Appeal to Commission

(3) Where the council does not agree with the board on the estimates or on the adequacy of the number of members of the police force or the accommodation, arms, equipment or other things for the use and maintenance of the force, the Commission shall determine the question after a hearing. R.S.O. 1970, c. 351, s. 14.

Appointment

15. The members of the police force in a municipality having a board shall be appointed by the board. R.S.O. 1970, c. 351, s. 15.

Regulations by board

16. A board may by by-law make regulations not inconsistent with the regulations under section 74 for the government of the police force, for preventing neglect or abuse, and for rendering it efficient in the discharge of its duties. R.S.O. 1970, c. 351, s. 16.

Police force subject to board

17.—(1) Notwithstanding section 2, the board is responsible for the policing and maintenance of law and order in the municipality and the members of the police force are subject to the government of the board and shall obey its lawful directions.

Idem

(2) Every member of the police force of a municipality, however appointed, is, from and after the passing of a by-law establishing a board, subject to the government of the board to the same extent as if appointed by the board. R.S.O. 1970, c. 351, s. 17.

Sale of stolen and abandoned property

18.—(1) Where any motor vehicle, bicycle or any personal property of any kind is in the possession of the board or a member of the police force by reason of having been stolen from its owner or by reason of having been found abandoned in a public place and the board or, where there is no board, the chief of police is unable to ascertain its owner, the board or, where there is no board, the council may cause it to be sold or otherwise disposed of as hereinafter set forth and, subject to subsection (3), may retain to its own use the proceeds of such sale or disposition.

Procedure for sale

(2) Where such property is perishable, the sale or disposition of it may be made at any time without notice of any kind, and, where such property is not perishable, the board or, where there is no board, the council may,

(*a*) in the case of property, other than motor vehicles or bicycles, after the expiration of three months from the time it came into possession of the board or member of the police force; or

(*b*) in the case of motor vehicles or bicycles, after the expiration of one month from the time it came into possession of the board or member of the police force,

sell it by public auction after at least ten days notice of the time and place of holding such auction has been given by publication once in a newspaper published in the municipality, and any such sale may be adjourned from time to time until the property is sold.

Proceeds of sale

(3) Where a motor vehicle or bicycle is sold under subsection (2) before the expiration of three months, the owner thereof may, at any time before the three months expire, claim the proceeds of the sale, less the costs of advertising and sale.

R.S.O. 1980, c. 198, paramount

(4) This section is subject to the *Highway Traffic Act*. R.S.O. 1970, c. 351, s. 18.

Municipalities that may have own police forces

19.—(1) Any county, township or village not required to establish a police force under section 2 may, with the approval of the Commission, establish or maintain a police force.

Aprovals of existing forces

(2) The approval of the Commission to maintain a police force established before the 22nd day of June, 1965, and maintained on the 15th day of June, 1967 shall be deemed to have been given.

Revocation of approvals

(3) The Commission may revoke an approval given under subsection (1) or (2) at any time. R.S.O. 1970, c. 351, s. 19.

Appointment of members where no board

20.—(1) Where a municipality that has established a police force does not have a board, the council shall appoint the members of the police force.

Composition of police force

(2) Subject to clause 42 (*g*), the members of a police force referred to in subsection (1) shall consist of one or more constables and such other police officers, assistants and civilian employees as the council considers adequate, and the council shall provide and

pay for such accommodation, arms, equipment, clothing and other things as the council considers adequate.

Idem (3) Where a police force has two or more constables, the council may appoint one constable to be chief of police. R.S.O. 1970, c. 351, s. 20.

Police village **21.** The trustees of a police village may, with the approval of the Commission, establish a police force, and where they do so the trustees shall carry out the duties of a council under section 20, and section 20 applies with necessary modifications. R.S.O. 1970, c. 351, s. 21.

Rates for cost of policing **22.**—(1) Subject to the approval of the Commission, the cost incurred by a municipality in maintaining its own police force or by reason of an agreement under section 63 or 64 may, if the council considers it proper, be paid by levying rates that are different between areas defined by the council or by levying rates in one or more such areas only.

Farm lands and buildings (2) Subject to the approval of the Commission, the council may grant entire or partial exemption from any rate or rates levied under subsection (1) to lands and buildings used exclusively for farming purposes. R.S.O. 1970, c. 351, s. 22.

Employees deemed members **23.**—(1) Every person employed in a police force shall be deemed to be a member thereof.

Determination by Commission (2) Where a question arises as to whether or not any person is a member or senior officer of a police force for the purposes of any provision of this Act, the Commission shall, upon the application of any person affected and after a hearing, determine the question, and the decision of the Commission is final. R.S.O. 1970, c. 351, s. 23.

Liability for torts **24.**—(1) The chief of police is liable in respect of torts committed by members of the police force under his direction and control in the performance or purported performance of their duties in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and shall in respect of any such torts be treated for all purposes as a joint tortfeasor.

Torts of chief of police (2) Where a chief of police is liable in respect of a tort committed by him in the performance or purported performance of his duties, he is also liable and may be sued separately in his capacity as chief of police for the purposes of subsection (4).

Where office of chief of police vacant

(3) Where the office of chief of police is vacant or where there is no chief of police, the chairman of the board or, where there is no board, the head of the council shall be deemed to be the chief of police for the purposes of this section.

Payment by municipality

(4) The municipality shall pay,

(*a*) any damages or costs awarded against the chief of police in any proceeding brought against him by virtue of this section and any costs incurred by him in any such proceeding so far as not recovered by him in the proceedings; and

(*b*) subject to the approval of the council, any sum required in connection with the settlement of any claim made against the chief of police by virtue of this section.

Payment where amalgamated force

(5) Where damages and costs are awarded under this section in respect of the tort of a member of an amalgamated police force, each municipality participating in the amalgamation is jointly and severally liable for the damages and costs referred to in subsection (4).

Indemnifying police officers

(6) The council of a municipality may, in such cases and to such extent as it thinks fit, pay any damages or costs awarded against a member of the police force maintained by them or any special constable in any civil or criminal proceeding brought against him, any costs incurred and not recovered by him in any such proceeding, and any sum required in connection with the settlement of any claim that has or might have given rise to such proceeding.

Aid to widows and children in certain cases

25. The council of a municipality may grant pecuniary aid or other assistance to the widows and children of members of the police force who are killed or die from injuries received, or from illness contracted in the discharge of their duties. R.S.O. 1970, c. 351, s. 25.

AMALGAMATIONS

Amalgamations of police forces

26.—(1) Notwithstanding any other Act, two or more municipalities having police forces may enter into an agreement for the amalgamation of their police forces, and the agreement shall not take effect until it is approved by the Commission.

(2) An agreement under subsection (1) shall provide for, Agreement

(*a*) the establishment and composition of a board for the amalgamated police forces;

(*b*) the amalgamation of the police forces into one police force for the amalgamated area and the appointment or transfer of the members thereof;

(*c*) the use and disposition of the assets and liabilities of the component police forces by the amalgamated board;

(*d*) the budgeting of the cost for the maintenance and operation of the amalgamated police force;

(*e*) any other matter necessary or advisable for the purpose of effecting the amalgamation of the police forces. R.S.O. 1970, c. 351, s. 26.

27.—(1) Where two or more municipalities are amalgamated, the amalgamation of the police forces shall not take effect until the organization of the amalgamated police force has been approved by the Commission. Approval of police force of amalgamated municipality

(2) Any appointments to the board for a proposed amalgamated municipality may be made before the amalgamation takes effect. R.S.O. 1970, c. 351, s. 27. Appointment of board

BARGAINING AND ARBITRATION

28. A member of a police force shall not remain or become a member of any trade union or of any organization that is affiliated directly or indirectly with a trade union. R.S.O. 1970, c. 351, s. 28. Membership in trade union forbidden

29.—(1) A majority of the members of the police force may, where no agreement exists or at any time after ninety days before an agreement would expire but for section 35, give notice in writing to the council of the municipality, or, where there is a board, the board, of its desire to bargain with a view to making an agreement or to the renewal, with or without modifications of the agreement then in operation or to the making of a new agreement. Notice of desire to bargain

(2) Where notice has been given under subsection (1), the council of the municipality, or, where there is a board, the board, shall meet with a bargaining committee of the members of the police force within fifteen days from the giving of the notice or within such further period as Bargaining

the parties agree upon and the parties shall bargain in good faith and make every reasonable effort to come to an agreement for the purpose of making an agreement in writing defining, determining and providing for remuneration, pensions, sick leave credit gratuities, grievance procedures or working conditions of the members of the police force, other than the chief of police and any deputy chief of police, except such working conditions as are governed by a regulation made by the Lieutenant Governor in Council under this Act.

Association

(3) Where not less than 50 per cent of the members of the police force belong to an association, any notice under subsection (1) shall be given by the association.

Affiliated body

(4) In every case under this section, the members of a bargaining committee shall be members of the police force, but, where,

(*a*) the association is affiliated with a police organization; or

(*b*) not less than 50 per cent of the members of the police force belong to a police organization,

at all meetings of the parties held for the purpose of bargaining, the bargaining committee may be accompanied by one member of such organization who is actively engaged in the occupation of a police officer and who shall attend in an advisory capacity only.

Counsel

(5) In addition to the person mentioned in subsection (4), a bargaining committee may be accompanied by one legal counsel and one other adviser and the council or the board, as the case may be, or bargaining committee thereof, may be accompanied by one legal counsel and one one other adviser.

Bargaining by council or board

(6) The council or, where there is a board, the board may designate one or more of its members as a bargaining committee to bargain on its behalf.

Pension plans under R.S.O. 1980, c. 302

(7) Where a notice under subsection (1) involves pensions under a pension plan established or to be established under the *Municipal Act*, the notice shall also be given to the Ministry of Intergovernmental Affairs, which may determine the maximum pension benefits that may be included in any agreement or award with respect to such pension plan. 1972, c. 103, s. 2, *part*.

30.—(1) In this section, "senior officer" means a member of a police force of the rank of inspector or higher or a civilian employee employed in a supervisory or confidential capacity, but does not include a chief of police or deputy chief of police. Senior officer defined

(2) Where not fewer than 50 per cent of the senior officers of a police force are members of an association composed only of senior officers, sections 29, 31 and 32 apply to the senior officers of the police force and to the association in the same manner as to the members of the police force and their association and the senior officers shall not be included as members of the police force for the purposes of bargaining, conciliation and arbitration. 1972, c. 103, s. 2, *part*. Separate bargaining by senior officers

31.—(1) Where notice has been given under subsection 29 (1), the Solicitor General, upon the request of either party, may appoint a conciliation officer. Conciliation officer

(2) The conciliation officer shall confer with the parties and endeavour to effect an agreement and he shall, within fourteen days from his appointment, report the result of his endeavour to the Solicitor General. Duties

(3) The period mentioned in subsection (2) may be extended by agreement of the parties or by the Solicitor General upon the advice of the conciliation officer that an agreement may be made within a reasonable time if the period is extended. Extension of time

(4) Where the conciliation officer reports to the Solicitor General that the differences between the parties concerning the terms of an agreement have been settled or that an agreement cannot be reached, the Solicitor General shall forthwith by notice in writing inform the parties of the report. Report

(5) Where the appointment of a conciliation officer has been requested under subsection (1), neither party shall give notice pursuant to section 32 requiring all matters in dispute to be referred to an arbitrator, until the Solicitor General has informed the parties of the report of the conciliation officer in accordance with subsection (4) or of his determination that a conciliation officer should not be appointed. 1972, c. 103, s. 2, *part*. No arbitration during conciliation

32.—(1) Where, after bargaining under section 29, the council of the municipality or, where there is a board, the board, or the members of the police force or, where there Arbitration

is a bargaining committee, the bargaining committee is satisfied that an agreement cannot be reached, it may by notice in writing to the Solicitor General and to the other party require all matters in dispute to be referred to an arbitrator designated by the Solicitor General.

Commencement and termination of arbitration proceedings

(2) The arbitrator shall commence the arbitration proceedings within thirty days after he is designated and shall deliver the decision or award within sixty days after the commencement of the arbitration proceedings.

Representations by councils

(3) Where a board or a bargaining committee of the board is a party to proceedings before an arbitrator, the council may, when authorized by resolution thereof, make or have made on its behalf representations before the arbitrator.

Costs

(4) The Arbitration Commission shall pay the fees of the arbitrator and each party to the arbitration shall bear its own costs incurred in the proceedings except for those costs and expenses of the arbitration for matters shared in common, which shall be borne equally by the parties.

Application of R.S.O. 1980, c. 25

(5) The *Arbitrations Act* does not apply to an arbitration under this section. 1972, c. 103, s. 2, *part*.

Determination of disputes

33.—(1) Where,

(*a*) a difference arises between the parties relating to the interpretation, application or administration of an agreement made under section 29, 30 or 31, or of a decision or award of an arbitrator made under section 32; or

(*b*) an allegation is made that the agreement or award has been violated,

either of the parties may, notwithstanding any grievance or arbitration procedure established by the agreement, notify the other party in writing of its desire to submit the difference or allegation to an arbitrator and, if the recipient of the notice and the party desiring the arbitration do not within ten days agree upon a single arbitrator, the appointment of a single arbitrator shall be made by the Solicitor General upon the request of either party, and the arbitrator shall commence to hear and determine the difference within thirty days after his appointment and shall issue a decision within a reasonable time thereafter, and such decision is final and binding upon the parties.

Costs

(2) Each party to an arbitration under subsection (1) shall share equally the cost of the arbitration proceedings and the cost of the arbitrator.

Enforcement

(3) The arbitrator may, and, at the request of either of the parties, shall, after the expiration of thirty days from the date of the delivery of the decision, or of the date provided in the decision for compliance, whichever is the later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the form prescribed by the regulations, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1972, c. 103, s. 2, *part*.

Extension of period mentioned in ss. 29, 31-33

34. Any period mentioned in section 29, 31, 32 or 33 may be extended by agreement of the parties. 1972, c. 103, s. 2, *part*.

Agreements and awards binding

35.—(1) Every agreement made under section 29 or 30 and every decision or award of an arbitrator is binding upon the council of the municipality, the board, where there is a board, and the members of the police force, other than the chief of police and any deputy chief of police. 1972, c. 103, s. 3.

Duration of agreements, etc.

(2) Every agreement, decision or award remains in effect until the end of the year in which it comes into effect and thereafter remains in effect until replaced by a new agreement, decision or award.

Idem

(3) Notwithstanding subsection (2), the parties to an agreement may provide therein or at any time before a decision or award is made with respect thereto that the agreement and any such decision or award shall remain in effect until the end of the year next following the year in which it comes into effect, in which case it remains in effect for such period and thereafter remains in effect until replaced by a new agreement, decision or award.

New agreements, etc.

(4) Either party to collective bargaining that has resulted in an agreement, decision or award may proceed under sections 29, 30, 31 and 32 at any time for a new agreement, decision or award. R.S.O. 1970, c. 351, s. 36 (2-4).

Effect of agreement, decision or award

36.—(1) An agreement, decision or award takes effect upon the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures incurred in the agreement,

decision or award, whether such day is before or after the date of the agreement, decision or award, unless another day is named in the agreement, decision or award in lieu thereof.

Idem

(2) Where, pursuant to subsection (1), another day is named in an agreement, decision or award as the day upon which the agreement, decision or award is to take effect and such day is prior to the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures involved in the agreement, decision or award, any of the provisions involving expenses shall, notwithstanding the naming of such day, take effect from the first day of such fiscal period. R.S.O. 1970, c. 351, s. 37.

Provision for expenditure

37. Where a request in writing is made under subsection 29 (1) during a year ending with the 31st day of December and no agreement, decision or award has resulted therefrom at the time when the council is passing its estimates in the year next following, the council shall make such provision as in its opinion is adequate for the payment of any expenditure resulting from such agreement, decision or award. R.S.O. 1970, c. 351, s. 38.

Ontario Police Arbitration Commission continued

38.—(1) The commission known as the Ontario Police Arbitration Commission is continued and shall be composed of five members appointed by the Lieutenant Governor in Council, of whom one shall be designated as chairman to hold office during the pleasure of the Lieutenant Governor in Council.

Composition

(2) Two members of the Arbitration Commission, other than the chairman, shall be representative of police governing bodies and two members, other than the chairman, shall be representative of members of police forces.

Term of appointments

(3) The appointments of representatives of police governing bodies and members of police forces shall be for terms of two years, and representatives are eligible for reappointment.

Full-time arbitrator

(4) There shall be a full-time arbitrator on the staff of the Arbitration Commission who shall be appointed by the Solicitor General upon the recommendation of the Arbitration Commission.

Staff

(5) Such other officers and employees as are considered necessary shall be appointed to the staff of the Arbitration Commission under the *Public Service Act*.

R.S.O. 1980, c. 418

(6) The duties and functions of the Arbitration Commission are to, Duties and functions of Arbitration Commission

(*a*) maintain a register of arbitrators available for designation by the Solicitor General under this Act;

(*b*) assist arbitrators by making the administrative arrangements required for the conduct of arbitrations;

(*c*) sponsor the publication and distribution of information in respect of arbitration processes and awards;

(*d*) sponsor research in respect of arbitration processes and awards;

(*e*) fix the fees of arbitrators for the purposes of section 33 and determine the amount that shall be deemed to be the fees of the full-time arbitrator on the staff of the Arbitration Commission where he acts under the said section, which amount shall be paid to the Arbitration Commission. 1972, c. 103, s. 4, *part, revised*.

39.—(1) Where a council or board enters into an agreement in respect of matters referred to in subsection 29 (2), the council or board shall file a copy of the agreement with the Arbitration Commission. Filing agreements

(2) An arbitrator who makes an award or decision under section 32 or 33 shall file a copy of the award with the Arbitration Commission. 1972, c. 103, s. 4, *part*. Filing awards

40. Subject to the approval of the Lieutenant Governor in Council, the Arbitration Commission may make regulations, Regulations

(*a*) governing the conduct of arbitration proceedings and prescribing procedures therefor;

(*b*) prescribing forms and providing for their use. 1972, c. 103, s. 4, *part*.

PART III

ONTARIO POLICE COMMISSION

41.—(1) The commission known as the Ontario Police Commission is continued and shall be composed of three persons who shall be appointed by the Lieutenant Governor in Council. Ontario Police Commission continued

Chairman

(2) The Lieutenant Governor in Council may designate one of the members of the Commission to be chairman.

Vacancies

(3) When a vacancy occurs on the Commission from any cause, the vacancy may be filled by the Lieutenant Governor in Council.

Quorum

(4) Two members of the Commission constitute a quorum whether or not a vacancy exists in the membership of the Commission.

Meetings

(5) The Commission shall in each year hold such meetings as it considers appropriate and the meetings shall be open to the public unless otherwise directed by the Commission.

Signing of orders, etc.

(6) All orders, consents, certificates and other documents issued or made by the Commission shall be signed by the chairman or any member of the Commission, and, when purporting to be so signed, shall be judicially noticed without further proof. R.S.O. 1970, c. 351, s. 40 (1-6).

Annual report

(7) The Commission shall, after the close of each calendar year, file with the Solicitor General an annual report upon the affairs of the Commission, and the Solicitor General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 351, s. 40 (7); 1972, c. 1, s. 97 (2).

Expenses, how paid

(8) The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated by the Legislature for the purpose. R.S.O. 1970, c. 351, s. 40 (8).

Functions of Commission

42.—(1) It is the function of the Commission,

(*a*) to maintain a system of statistical records and research studies of criminal occurrences and matters related thereto for the purpose of aiding the police forces in Ontario;

(*b*) to consult with and advise boards of commissioners of police, police committees of municipal councils and other police authorities and chiefs of police on all matters relating to police and policing;

(*c*) to provide to boards of commissioners of police, police committees of municipal councils and other police authorities and chiefs of police information and advice respecting the management and operation of police forces, techniques in handling special problems and other information calculated to assist;

(*d*) through its members and advisers, to conduct a system of visits to the police forces in Ontario;

(*e*) to require municipalities to provide such lock-ups as the Commission may determine;

(*f*) to assist in co-ordinating the work and efforts of the police forces in Ontario;

(*g*) to determine whether a police force is adequate and whether a municipality is discharging its responsibility for the maintenance of law and order;

(*h*) to inquire into any matter regarding the designation of a village or township under subsection 2 (4) and, after a hearing, to make recommendations therefor to the Solicitor General;

(*i*) to operate the Ontario Police College;

(*j*) subject to the approval of the Solicitor General, to establish and require the installation of an intercommunication system for the police forces in Ontario and to govern its operation and procedures;

(*k*) to conduct investigations in accordance with the provisions of this Act;

(*l*) to hear and dispose of appeals by members of police forces in accordance with this Act and the regulations; and

(*m*) to exercise the powers and perform the duties conferred and imposed upon it by this Act. R.S.O. 1970, c. 351, s. 41 (1); 1972, c. 1, s. 97 (2).

Equipment

(2) Subject to the approval of the Solicitor General, the Commission may, by order, regulate or prohibit the use of any equipment by a police force in Ontario or its members. R.S.O. 1970, c. 351, s. 41 (2); 1972, c. 1, s. 97 (2).

PART IV

ONTARIO PROVINCIAL POLICE FORCE

Commissioner

43.—(1) There shall be a Commissioner of the Ontario Provincial Police Force who shall be appointed by the Lieutenant Governor in Council. R.S.O. 1970, c. 351, s. 42 (1).

Powers and duties

(2) Subject to the direction of the Ontario Police Commission as approved by the Solicitor General, the Commissioner

has the general control and administration of the Ontario Provincial Police Force and the employees connected therewith. R.S.O. 1970, c. 351, s. 42 (2); 1972, c. 1, s. 97 (2).

Investigations

(3) The Commission, the Commissioner or a deputy commissioner may hold an inquiry into the conduct of any member of the Ontario Provincial Police Force or of any employee connected therewith and upon such inquiry it or he has and may exercise all the powers and authority of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 351, s. 42 (3); 1971, c. 49, s. 18.

R.S.O. 1980, c. 411

Commissioner to be *ex officio* provincial judge

44.—(1) Unless otherwise provided by order in council, the Commissioner is *ex officio* a provincial judge for the Province of Ontario and he has and may exercise and perform the powers and duties of a provincial judge, and may take informations and issue warrants or summonses in any city, town, county, provisional county or provisional judicial district or other locality in Ontario, and may make the same returnable in the city, town, county, provisional county, provisional judicial district or other locality in which the offence charged is alleged to have been committed.

Exercise of jurisdiction

(2) The jurisdiction conferred by subsection (1) may be exercised by the Commissioner notwithstanding that there is in the locality in which he acts a provincial judge who, under the *Provincial Courts Act* or any other statute, has jurisdiction, exclusive or otherwise. R.S.O. 1970, c. 351, s. 43.

R.S.O. 1980, c. 398

Annual report

45. The Commissioner shall, after the close of each calendar year, file with the Solicitor General an annual report upon the affairs of the Ontario Provincial Police Force, and the Solicitor General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 351, s. 44; 1972, c. 1, s. 97 (2).

O.P.P.

46.—(1) The Ontario Provincial Police Force shall consist of the Commissioner and such other officers and other ranks as are appointed.

Employees

(2) There may be appointed such employees as are required in connection with the Force.

Officers

(3) The Lieutenant Governor in Council may,

(*a*) appoint persons to be officers; and

(*b*) authorize the issue of a commission under the Great Seal to an officer upon his first appointment to the rank of an officer. R.S.O. 1970, c. 351, s. 45.

Duties of members of Force

47.—(1) It is the duty of the members of the Ontario Provincial Police Force, subject to this Act and the orders of the Commissioner,

(*a*) to perform all duties that are assigned to constables in relation to the preservation of the peace, the prevention of crime and of offences against the laws in force in Ontario and the criminal laws of Canada and the apprehension of criminals and offenders and others who may be lawfully taken into custody;

(*b*) to execute all warrants, perform all duties and services thereunder or in relation thereto that may, under the laws in force in Ontario, be lawfully executed and performed by constables;

(*c*) to perform all duties that may be lawfully performed by constables in relation to the escort and conveyance of convicts and other prisoners and mentally incompetent persons to and from any courts, places of punishment or confinement, hospitals or other places; and

(*d*) generally to perform such duties as are from time to time assigned to them by the Commissioner.

Municipal by-laws

(2) Except under an agreement entered into under section 64, the Ontario Provincial Police Force shall not be charged with any duties under or in connection with any municipal by-laws. R.S.O. 1970, c. 351, s. 46.

Liability for torts

48.—(1) The Commissioner is liable, in respect of torts committed by members of the Force in the performance or purported performance of their duties, in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and shall in respect of any such torts be treated for all purposes as a joint tortfeasor.

Payment by Ontario

(2) The Treasurer of Ontario shall pay out of the Consolidated Revenue Fund,

(*a*) any damages awarded against the Commissioner in any proceeding brought against him by virtue of this section and any costs incurred by him in any such proceeding so far as not recovered by him in the proceedings; and

(*b*) subject to the approval of the Lieutenant Governor in Council, any sum required in connection with the settlement of any claim made against the Commissioner by virtue of this section. R.S.O. 1970, c. 351, s. 47.

Aid to dependants

49. The Lieutenant Governor in Council may, out of moneys appropriated therefor by the Legislature, grant pecuniary aid or other assistance for the benefit of the surviving spouses and children of members of the Ontario Provincial Police Force who are killed or die from injuries received or from illness contracted in the discharge of their duties. 1974, c. 106, s. 1.

Service badges

50.—(1) The Lieutenant Governor in Council may provide for the granting of service badges to the members of the Ontario Provincial Police Force or any class thereof and for money allowances to be paid to the members entitled to any service badge.

Allowances

(2) The money allowance shall be deemed to be part of the salary of the member. R.S.O. 1970, c. 351, s. 48.

PART V

EMERGENCY POLICE

Interpretation

51. In this Part, "member" includes an auxiliary member. R.S.O. 1970, c. 351, s. 49, *revised*.

Appointment of auxiliary police

52.—(1) An authority empowered to appoint members of a police force may appoint auxiliary members in a number approved by the Commission, and may suspend or terminate any such appointment.

Approval of appointment and notice of termination

(2) The appointment of an auxiliary member of a police force is subject to the approval of the Commission, and written notice of the suspension or termination of the appointment of an auxiliary member shall be forthwith transmitted to the Commission.

Authority

(3) Where an emergency exists or where the members of a police force are not adequate to meet a special occasion, the chief of police or the Commissioner, as the case may be, may authorize auxiliary members of the force to perform police duties, and while so authorized an auxiliary member becomes a constable and has authority to act as a constable of the force.

(4) Every authority appointing an auxiliary member of a police force shall require him to take and subscribe to an oath in a form prescribed by the regulations. R.S.O. 1970, c. 351, s. 50. Oath

53. Subject to sections 33 and 34 of the *National Defence Act* (Canada), during an emergency no member of a police force having jurisdiction in the area in which the emergency exists shall resign without the consent of the Commissioner. R.S.O. 1970, c. 351, s. 51. Resignations R.S.C. 1970, c. N-4

54. Where an emergency exists, the Solicitor General may make agreements with the Crown in right of Canada or of any other province or any agency thereof for the provision of additional police services and, upon the agreement being made, all peace officers to whom the agreement relates are authorized to act as constables in the area in which the emergency exists. R.S.O. 1970, c. 351, s. 52; 1972, c. 1, s. 97 (2). Agreements for additional police services

55. The relationship between a member of a police force and the body that employs him continues for the purposes of the *Workmen's Compensation Act* as if this Part had not been passed. R.S.O. 1970, c. 351, s. 53. Workmen's compensation not affected R.S.O. 1980, c. 539

PART VI

GENERAL

56. Every chief of police, other police officer and constable, except a special constable or a by-law enforcement officer, has authority to act as a constable throughout Ontario. R.S.O. 1970, c. 351, s. 54. Constables empowered to act throughout Ontario

57. The members of police forces appointed under Part II, except assistants and civilian employees, are charged with the duty of preserving the peace, preventing robberies and other crimes and offences, including offences against the by-laws of the municipality, and apprehending offenders, and commencing proceedings before the proper tribunal, and prosecuting and aiding in the prosecuting of offenders, and have generally all the powers and privileges and are liable to all the duties and responsiblities that belong to constables. R.S.O. 1970, c. 351, s. 55. Duties and powers of members of police forces

58.—(1) The Ontario Police Commission or any member thereof designated by the chairman may investigate, inquire into and report upon the conduct of or the performance of duties by any chief of police, other police officer, constable, special constable or by-law enforcement officer, the administration of any police force, the system of policing any municipality, and the police needs of any municipality, Investigations

(*a*) at the request of the council of any municipality, in which case the municipality, unless the Solicitor General otherwise directs, shall pay the cost of the investigation, including the cost of reporting and transcribing the evidence; or

(*b*) without the request of the council of a municipality, in which case the cost of the investigation, including the cost of reporting and transcribing the evidence, shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 351, s. 56 (1); 1972, c. 1, s. 97 (2).

Inquiry as to amalgamation of police forces

(2) The Commission may inquire into and report to the Solicitor General on the advisability of amalgamating the police forces of any two or more municipalities and any question, matter or thing relating thereto. R.S.O. 1970, c. 351, s. 56 (2); 1972, c. 1, s. 97 (2).

Powers on investigation

R.S.O. 1980, c. 411

(3) The Commission or person holding an investigation under this section has and may exercise all the powers and authority of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 351, s. 56 (3); 1971, c. 49, s. 18.

Counsel

(4) The Solicitor General may, upon the request of the Commission, appoint counsel to assist the Commission in an inquiry or investigation under this section. R.S.O. 1970, c. 351, s. 56 (4); 1972, c. 1, s. 97 (2).

Report

(5) The Commission shall communicate its report of an investigation under subsection (1),

(*a*) to the Solicitor General upon his request or if the Commission considers it advisable;

(*b*) to the council or, where there is a board, the board of the municipality for which the police force is maintained upon its request or if the Commission considers it advisable; and

(*c*) to such other persons as the Commission considers advisable. R.S.O. 1970, c. 351, s. 56 (5); 1972, c. 1, s. 97 (2).

Inquiries

59.—(1) The Lieutenant Governor in Council may direct the Commission to inquire into and report to the Lieutenant Governor in Council upon any matter relating to,

(*a*) the extent, investigation or control of crime; or

(*b*) the enforcement of law,

and the Lieutenant Governor in Council shall define the scope of the inquiry in the direction. R.S.O. 1970, c. 351, s. 57 (1).

Powers on inquiry

(2) For the purpose of an inquiry under this section, the Commission has and may exercise all the powers and authority of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 351, s. 57 (2, 3), *revised*.

R.S.O. 1980, c. 411

Evidence in private

(3) Upon the request or with the consent of a witness at an inquiry under this section, his evidence shall be taken in private.

Rights of witnesses

(4) A witness under this section has,

(*a*) the right to retain and instruct counsel;

(*b*) the remedies by way of *habeas corpus*, or in the nature of certiorari, prohibition, mandamus and other extraordinary remedies;

(*c*) every protection available under the *Evidence Act* to a witness; and

R.S.O. 1980, c. 145

(*d*) all the rights of a witness in a civil court.

Stated case

(5) Where the validity of a direction under subsection (1) or the jurisdiction of the Commission or the validity of any decision, order, direction or other act of the Commission is called into question by any person affected, the Commission, upon the request of such person, shall state a case in writing to the Divisional Court setting forth the material facts.

Idem

(6) If the Commission refuses to state a case, any person affected may apply to the Divisional Court for an order directing the Commission to state a case, and, pending the decision of the stated case, no further proceedings shall be taken by the Commission.

Disclosure of evidence taken in private

(7) Where evidence is taken in private under subsection (3), no person, without the consent of the Commission, shall knowingly disclose any evidence so taken or the name of any witness so examined, and every person who contravenes this subsection is guilty of an offence and on conviction is liable to

a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1970, c. 351, s. 57 (4-8).

60. The chairman of the Commission may authorize one or more members of the Commission to exercise the powers and perform the duties of the Commission under section 42 or 59. R.S.O. 1970, c. 351, s. 58.

Expenses of provincial police, when payable by municipality

61. The Crown attorney may request the services of the Ontario Provincial Police Force in any area for the policing of which a municipality or board is responsible and the cost of furnishing such services shall be certified by the Crown attorney or the Commissioner and, unless the Solicitor General otherwise directs, the amount so certified shall be paid by the municipality to the Treasurer of Ontario and may be deducted from any grant payable out of provincial funds to the municipality or recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1970, c. 351, s. 59 (1); 1972, c. 1, s. 97 (2).

Municipality may request assistance of provincial police

62.—(1) A board or council responsible for the policing of a municipality or part thereof may by resolution request the Commissioner to furnish the assistance of the Ontario Provincial Police Force in maintaining law and order or investigating any offence in the municipality and the Commissioner may with the approval of the Ontario Police Commission provide such assistance as he considers necessary. R.S.O. 1970, c. 351, s. 60 (1).

Expenses, how payable

(2) Where such assistance is provided in an area for the policing of which the board or municipality is responsible, the expense incurred shall be certified by the Commissioner and, unless the Solicitor General otherwise directs, the amount certified shall be paid by the municipality to the Treasurer of Ontario and may be deducted from any grant payable out of provincial funds to the municipality or recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty. R.S.O. 1970, c. 351, s. 60 (2); 1972, c. 1, s. 97 (2).

Municipal policing agreements

63. The board or, where there is no board, the council of a municipality may by agreement with the board or, if none, the council of another municipality provide that the services of the members of the police force of the first-mentioned municipality shall be available in the other municipality upon such terms and conditions as are set forth in the agreement. R.S.O. 1970, c. 351, s. 61.

Agreement for provincial police to police municipalities

64.—(1) The Solicitor General may enter into an agreement with the council of any municipality for the policing

of the whole or any part of the municipality, or with any company for the policing of any area, by the Ontario Provincial Police Force. R.S.O. 1970, c. 351, s. 62 (1); 1972, c. 1, s. 97 (2).

No agreement except on request of board

(2) In municipalities having a board, no agreement shall be entered into under this section except at the request of the board. R.S.O. 1970, c. 351, s. 62 (2).

Rates of pay to be considered

(3) No agreement shall be entered into under this section with a municipality at a cost that is less than the aggregate of police salaries paid by the municipality or where in the opinion of the Solicitor General such an agreement is sought for the purpose of defeating the collective bargaining provisions of this Act. R.S.O. 1970, c. 351, s. 62 (3); 1972, c. 1, s. 97 (2).

Duties

(4) Where an agreement has been entered into under subsection (1), the members of the Ontario Provincial Police Force assigned to duty in the municipality or area are charged with the duty of preserving the peace, preventing crime and other offences, including offences against the by-laws of the municipality, and shall perform such other duties as are specified in the agreement.

Moneys to be paid into Consolidated Revenue Fund

(5) The moneys received from a municipality or company pursuant to an agreement entered into under subsection (1) shall be paid into the Consolidated Revenue Fund. R.S.O. 1970, c. 351, s. 62 (4, 5).

Fines, etc.

(6) Where a municipality is entitled to receive fines or the proceeds of estreated recognizances because of prosecutions instituted by constables appointed by the council or by a board and the municipality has entered into an agreement with the Solicitor General or with another municipality to furnish police services, such members of the Ontario Provincial Police Force or of the police force of the other municipality as are assigned for duty under the agreement shall, for the purposes of the disposition of any such fines or proceeds, be deemed to be constables of the first-mentioned municipality. R.S.O. 1970, c. 351, s. 62 (6); 1972, c. 1, s. 97 (2).

When board to act in advisory capacity

65. Where pursuant to section 64 the Solicitor General enters into an agreement with a municipality having a board, sections 14, 15, 16 and 17 do not apply, but the board shall act in an advisory capacity to the senior officer of the Ontario Provincial Police Force in the municipality and to the Solicitor General with respect to the policing of the municipality. R.S.O. 1970, c. 351, s. 63; 1972, c. 1, s. 97 (2).

Oath

66.—(1) Every person appointed to be a chief of police, other police officer or constable shall before entering on the duties of his office, and every special constable when thereunto required, take and subscribe the following oath:

> I, ..., do swear that I will well and truly serve Her Majesty the Queen in the office of constable (*or as the case may be*) for the.....of.....without favour or affection, malice or ill-will; and that, to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects; and that, while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to the law. So help me God.
>
> *C.D.*
>
> Sworn, etc.

Disposition of oath

(2) The oath of every chief of police, other police officer and constable of a municipal police force shall be deposited in the office of the clerk of the municipality or of the secretary of the board of the municipality for which he is appointed. R.S.O. 1970, c. 351, s. 64.

Canadian Forces, calling out

67. The expenses of and incidental to the calling out of The Canadian Forces in aid of the civil powers shall be paid by the corporation of the city or separated town wherein their services are required, and in the case of other municipalities by the county. R.S.O. 1970, c. 351, s. 65.

Policing beyond boundaries of municipality

68. A municipality having an interest in a building or area beyond the boundaries of the municipality may undertake and agree to pay the whole or a part of the cost of policing such building or area. R.S.O. 1970, c. 351, s. 66.

Special constables

69.—(1) Subject to section 56, a county court judge, a district court judge or a provincial judge may, by written authority, appoint any person to act as special constable for such period, area and purpose as he considers expedient.

Appointment by Commissioner

(2) The Commissioner may, by written authority, appoint any person to act as a special constable for such period, area and purpose as he considers expedient, and, notwithstanding section 56, such special constable may be authorized to act as a constable throughout Ontario.

Approval of Commission

(3) Every appointment as a special constable is subject to the approval of the Commission.

Suspension or termination of services

(4) The authority who has appointed a special constable, or the Commission, may suspend or terminate the services of such constable, and written notice of the suspension or

termination shall, if made by the Commissioner or a judge, be forthwith transmitted to the Commission.

Oath of special constable

(5) Every authority appointing a special constable shall require him to take and subscribe an oath similar to that set out in subsection 66 (1). R.S.O. 1970, c. 351, s. 67.

Municipal law enforcement officer

70. The council of any municipality or the trustees of any police village may appoint one or more municipal law enforcement officers who shall be peace officers for the purpose of enforcing the by-laws of the municipality or police village. R.S.O. 1970, c. 351, s. 68.

Causing disaffection, etc.

71.—(1) Every person, including a member of a police force, who,

(*a*) causes or attempts to cause, or does any act calculated to cause, disaffection among the members of a police force;

(*b*) induces or attempts to induce, or does any act calculated to induce, a member of a police force to withhold his services or commit a breach of discipline; or

(*c*) being a member of a police force, withholds his services,

is guilty of an offence and on conviction is liable to a fine of not more than $500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1970, c. 351, s. 69 (1).

Consent

(2) No prosecution shall be instituted under this section without the consent of the Solicitor General. R.S.O. 1970, c. 351, s. 69 (2); 1972, c. 1, s. 97 (2).

Disqualification and forfeiture of rights

(3) Where a person convicted of an offence under subsection (1) is a member of a police force, he shall,

(*a*) cease to be a member and shall not thereafter be appointed to any police force; and

(*b*) subject to any agreement with or by-law of the municipality, forfeit all pension rights under any pension scheme of such police force except his right to receive such moneys as he has paid into any fund under the scheme with interest at the rate payable under the scheme. R.S.O. 1970, c. 351, s. 69 (3).

Ontario Police College continued

72.—(1) The police college known as the Ontario Police College for the training of members of police forces is continued. R.S.O. 1970, c. 351, s. 70 (1).

Commission to operate College

(2) The Commission shall operate the Ontario Police College and is responsible to the Solicitor General therefor. R.S.O. 1970, c. 351, s. 70 (2); 1972, c. 1, s. 97 (2).

Police cadets

73. Any chief of police may, subject to the approval of the board or, where there is no board, of the council, appoint persons as police cadets to undergo training, and police cadets shall be deemed to be members of the police force. R.S.O. 1970, c. 351, s. 71.

REGULATIONS

Regulations

74.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) for the government of police forces and governing the conduct, duties, suspension and dismissal of members of police forces;

(*b*) providing for the payment of fees and expenses to witnesses at hearings in connection with the discipline of police officers;

(*c*) governing the qualifications for the appointment of persons to police forces and for their promotion;

(*d*) establishing the ranks that shall be held by members of police forces;

(*e*) prescribing the form of oath that shall be taken by auxiliary members of police forces;

(*f*) prescribing the minimum salary or other remuneration and allowances to be paid to members of police forces;

(*g*) prescribing the minimum remuneration to be paid by a municipality to the members of boards who are designated by the Lieutenant Governor in Council or appointed by the Solicitor General;

(*h*) prescribing the minimum number of members of police forces that shall be employed either upon a basis of population, area, property assessment, or any combination thereof, or upon any other basis;

(*i*) governing lock-ups and providing for their inspection;

(*j*) prescribing requirements respecting clothing and equipment to be furnished by municipalities;

(*k*) prescribing courses of training for members of police forces;

(*l*) providing for or granting financial aid to and the administration and course of study in a police training school;

(*m*) prescribing or regulating the number of meetings to be held by boards and the times and places at which they are to be held;

(*n*) prescribing the records, returns, books and accounts to be kept and made by police forces or the members thereof;

(*o*) prescribing the method of accounting for fees and costs and other money that comes into the hands of members of police forces;

(*p*) respecting any matter relating to the Commissioner and the Ontario Provincial Police Force as is considered necessary;

(*q*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 351, s. 72 (1); 1972, c. 1, s. 97 (2).

Regulations may be general or particular

(2) Any regulation made under the authority of subsection (1) may be general or particular in its application. R.S.O. 1970, c. 351, s. 72 (2).

CHAPTER 382

Policy and Priorities Board of Cabinet Act

Interpretation

1. In this Act, "Board" means the Policy and Priorities Board of Cabinet. 1971 (2nd Sess.), c. 13, s. 1.

Establishment and composition of Board

2.—(1) There shall be a Policy and Priorities Board of Cabinet which shall consist of the Chairman and not fewer than five and not more than six other members of the Executive Council designated from time to time by the Lieutenant Governor in Council.

Chairman

(2) The Premier is the Chairman of the Board.

Chairman's powers and duties

(3) The Chairman shall preside at meetings of the Board and is responsible for the operation and administration of the Board.

Absence of Chairman

(4) When the Chairman will be or is absent from any meeting he may appoint a member of the Board to preside at the meeting otherwise the members present at the meeting shall appoint a member to preside at the meeting.

Staff

(5) The Secretary to the Cabinet shall, from among the persons on the staff of the Cabinet office, provide the Board with such staff as is necessary for the proper conduct of the business of the Board.

Procedure

(6) The Board may determine its rules and methods of procedure and shall keep a minute book in which proceedings shall be recorded.

Quorum

(7) Three members of the Board constitute a quorum. 1971 (2nd Sess.), c. 13, s. 2.

Duties of Board

3. The Board shall be the committee of the Executive Council which shall develop, review, co-ordinate and advise on policy and priorities relating to,

(*a*) the overall long-term and short-term goals of governmental activity in relation to the social and economic needs of the Province of Ontario;

(*b*) the general outline of budgetary and fiscal policy and of levels of taxation and priorities among expenditure programs in accordance with the goals;

(*c*) recommendations submitted by policy field committees;

(*d*) program proposals and other matters referred to the Board;

(*e*) the periodic reappraisal of existing programs; and

(*f*) intergovernmental relations." 1971 (2nd Sess.), c. 13, s. 3.

CHAPTER 383

Pounds Act

Scope of Act save as varied by by-laws R.S.O. 1980, c. 302

1. Except so far as varied by any by-law passed under paragraphs 3 to 6 of section 210 of the *Municipal Act*, this Act is in force in every city, town, township and village in Ontario. R.S.O. 1970, c. 353, s. 1.

Liability of owners and others for damage done

2. The owner or occupant of any land is responsible for any damage caused by any animal under his charge and keeping as though such animal were his own property, and the owner of any animal not permitted to run at large by the by-laws of the municipality is liable for any damage done by such animal, although the fence enclosing the premises of the complainant was not of the height required by such by-laws. R.S.O. 1970, c. 353, s. 2.

Animals not to run at large

3. No cattle, goat, horse, sheep or swine shall be allowed to run at large in any part of a provisional judicial district not included in an organized municipality. 1975, c. 67, s. 2, *part*.

Owner of animal liable for damages and fine

4. The owner of any cattle, goat, horse, sheep or swine running at large contrary to section 3 is liable in damages for all injuries committed by such animal or animals, and also is guilty of an offence and on conviction is liable to a fine of not more than $300. 1975, c. 67, s. 2, *part*.

What animals to be impounded

5.—(1) If not previously replevied, the poundkeeper shall impound any horse, bull, ox, cow, sheep, goat, pig or other cattle, geese or other poultry, distrained for unlawfully running at large or for trespassing and doing damage, delivered to him for that purpose by any person resident in his division who has distrained the same.

Poultry

(2) If the owner of geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbour's premises after a notice in writing has been served upon him of their trespass, he is guilty of an offence and on conviction is liable to a fine of not more than $10. R.S.O. 1970, c. 353, s. 6.

Notice to clerk as to animals impounded

6. Where an animal has been impounded, the poundkeeper shall, within twenty-four hours, deliver to the

clerk of the municipality a notice in writing containing a description of the colour, age and natural and artificial marks of the animal, as nearly as may be. R.S.O. 1970, c. 353, s. 7.

When the common pound is not safe

7. When the common pound of the municipality or place wherein a distress has been made is not secure, the poundkeeper may confine the animal in any enclosed place within the limits of the poundkeeper's division within which the distress was made. R.S.O. 1970, c. 353, s. 8.

Statement of demand to be delivered to pound-keeper by impounder

8.—(1) The person distraining and impounding the animal shall, at the time of the impounding, deposit poundage fees, if demanded, and within twenty-four hours thereafter deliver to the poundkeeper duplicate statements in writing of his demands against the owner for damages, if any, not exceeding $20, done by such animal, exclusive of poundage fees, and shall also give his written agreement, with a surety if required by the poundkeeper, in the following form or in words to the same effect:

Form of agreement with pound keeper

> I (*or* we, *as the case may be*) do hereby agree that I (*or* we) will pay to the owner of the (*describing the animal*), by me (*A.B.*) this day impounded, all costs to which the owner may be put in case the distress by me the said (*A.B.*) proves to be illegal or in case the claim for damages now put in by me the said (*A.B.*) fails to be established.

Release of animal on security being furnished

(2) The owner of an animal impounded is entitled to it at any time on demand made therefor, without payment of any poundage fees, on giving satisfactory security to the poundkeeper for all costs, damages and poundage fees that may be established against him. R.S.O. 1970, c. 353, s. 9.

When animal may be retained by distrainor

9.—(1) If the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if it is distrained by a resident of the municipality for straying in his premises, instead of delivering the animal to the poundkeeper, he may retain the animal in his own possession, if he makes no claim for damages done by the animal and duly gives the notices hereinafter required.

Notice to owner if known

(2) If the owner is known, the person distraining shall forthwith give the owner notice in writing of having distrained the animal.

If unknown, notice to clerk of municipality

(3) If the owner is unknown, the person distraining shall, within forty-eight hours, deliver to the clerk of the

municipality a notice in writing of having distrained the animal containing a description of its colour, age and natural and artificial marks, as nearly as may be.

Duty of clerk thereon

(4) The clerk on receiving the notice shall forthwith enter a copy thereof in a book to be kept by him for that purpose and shall post it or a copy thereof in some conspicuous place on or near the door of his office and keep it so posted for at least one week, unless the animal is sooner claimed by the owner.

If animals worth $10 or over

(5) If the animal or animals distrained at the same time is or are of the value of $10 or more, the distrainor shall cause a copy of the notice to be published in a newspaper in the county or district once a week for three successive weeks. R.S.O. 1970, c. 353, s. 10.

Sale after notices

10. If an animal is impounded, notices for the sale thereof shall be given by the poundkeeper or person who impounded it within forty-eight hours afterwards, but no pig or poultry shall be sold until after four clear days, nor any horse or other cattle until after eight clear days, from the time of impounding it. R.S.O. 1970, c. 353, s. 11.

If animal is not impounded, but retained

11. If the animal is a pig, goat or sheep and is not impounded but is retained in the possession of the person distraining it, the notices for the sale thereof shall not be given for one month, and, if the animal is a horse or other cattle, the notices shall not be given for two months after the animal was distrained. R.S.O. 1970, c. 353, s. 12.

Notices of sale unless redeemed

12. The notices of sale shall be posted up for three clear successive days in three public places in the municipality and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law, if any, the amount of the injury, if any, claimed or decided to have been committed by the animal to the property of the person who distrained it, together with the lawful fees and charges of the poundkeeper and also of the fence-viewers, if any, and the expenses of the animal's keeping. R.S.O. 1970, c. 353, s. 13.

Food to be furnished impounded animal

13. Every poundkeeper and every person who impounds or confines, or causes to be impounded or confined, an animal in a common pound or in an open or close pound, or in an enclosed place, shall daily furnish the animal with good and sufficient food, water and shelter during the whole time that it continues impounded or confined. R.S.O. 1970, c. 353, s. 14.

Recovery of expenses

14.—(1) Every such person who furnishes an animal with food, water and shelter may recover the value thereof from the owner of the animal and also a reasonable allowance for his time, trouble and attendance in the premises.

Procedure for recovery

(2) Such value and allowance may be recovered with costs by summary proceeding before the provincial offences court in whose jurisdiction the animal was impounded in like manner as fines, penalties or forfeitures for the breach of a by-law of the municipality may by law be recovered and enforced by the provincial offences court, and the court shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering, so far as possible, to the tariff of poundkeeper's fees and charges established by the by-laws of the municipality. R.S.O. 1970, c. 353, s. 15.

Other mode of enforcing

15. The poundkeeper or person so entitled to proceed may, instead of such summary proceeding, enforce the remuneration to which he is entitled in the manner hereinafter mentioned. R.S.O. 1970, c. 353, s. 16.

Procedure for sale and disposal of proceeds

16. If it is proved by an affidavit sworn before a justice of the peace that the proper notices had been duly posted and published, then, if the owner or some one for him does not, before the sale of the animal, replevy or redeem it, the poundkeeper who impounded it or, if the person who distrained it did not deliver it to a poundkeeper but retained it in his own possession, any poundkeeper of the municipality may publicly sell it to the highest bidder at the time and place mentioned in the notices, and, after deducting the penalty and the damages, if any, and the fees and charges, shall apply the proceeds in discharge of the value of the food and nourishment, loss of time, trouble and attendance so supplied, and of the expenses of driving or conveying and impounding or confining the animal, and of the sale and attending it, or incidental thereto, and of the damage when legally claimable, not exceeding $20, done by it to the property of the person by whom or at whose instance it was distrained, and shall return the surplus, if any, to its original owner, or, if not claimed by him within three months after the sale, the poundkeeper shall pay such surplus to the treasurer of the municipality. R.S.O. 1970, c. 353, s. 17.

Disputes regarding demand for damages, how determined

17.—(1) If the owner, within forty-eight hours after the delivery of the statements provided for in section 8 disputes the amount of damages so claimed, the amount shall be decided by the majority of three fence-viewers of

the municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the poundkeeper.

Fence-viewers to view and appraise damage

(2) The fence-viewers or any two of them shall, within twenty-four hours after notice of their appointment, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the statutes or by-laws in that behalf at the time of the trespass and if it was a lawful fence, or, if the animal was one not permitted to run at large by the by-laws of the municipality, they shall appraise the damages committed, and, within twenty-four hours after having made the view, shall deliver to the poundkeeper a written statement signed by at least two of them of their appraisement and of their lawful fees and charges.

Where fence not lawful

(3) If, in the case of an animal permitted to run at large, the fence-viewers decide that the fence was not a lawful one, they shall so certify in writing under their hands, together with a statement of their lawful fees to the poundkeeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof, but, if not claimed or if such fees and charges are not paid, the poundkeeper, after due notice as required by this Act, shall sell the animal in the manner before mentioned at the time and place appointed in the notices. R.S.O. 1970, c. 353, s. 18.

Offence

18. If a poundkeeper or person who impounds or confines, or causes to be impounded or confined, an animal refuses or neglects to provide and supply it with good and sufficient food, water and shelter, he is guilty of an offence and on conviction is liable to a fine, for every day during which he is so in default, of not less than $1 and not more than $4. R.S.O. 1970, c. 353, s. 19.

Idem

19. Every fence-viewer who neglects his duty under this Act is guilty of an offence and on conviction is liable to a fine of $2. R.S.O. 1970, c. 353, s. 20.

Statement to be filed with clerk

20. Every poundkeeper and every person who distrains an animal under section 9 shall, on or before the 15th day of January in every year, file with the clerk of the municipality a statement for the year ending on the 31st day of December next preceding showing,

(*a*) the number of animals impounded or distrained, as the case may be;

(*b*) the number of animals sold and the amounts received;

(*c*) the sum received as poundage fees and cost of keep by the poundkeeper or party distraining;

(*d*) the damages paid by any party;

(*e*) all disbursements and to whom paid;

(*f*) any receipts and expenditures in connection therewith. R.S.O. 1970, c. 353, s. 21.

Certifying statement

21. The statement shall be certified to by the poundkeeper or the person distraining as a true and accurate statement. R.S.O. 1970, c. 353, s. 22.

Offence

22. Every poundkeeper or other person required to file such return, who neglects or refuses to file it on or before the 15th day of January in any year, is guilty of an offence and on conviction is liable to a fine of not more than $10. R.S.O. 1970, c. 353, s. 23.

CHAPTER 384

Power Corporation Act

Interpretation

1. In this Act, unless the contrary intention appears,

(*a*) "Board" means the Board of Directors of the Corporation;

(*b*) "buildings" includes all buildings, structures and works that the Corporation may deem necessary for the purposes of this Act;

(*c*) "chairman" means the chairman of the Board and chief officer of the Corporation;

(*d*) "Corporation" means the body corporate referred to in section 2;

(*e*) "director" means a member of the Board;

(*f*) "land" means real property of whatsoever nature or kind, and includes tenements, hereditaments and appurtenances, and any estate, term, easement, right or interest in, to, over, under or affecting land;

(*g*) "Minister" means the Minister of Energy;

(*h*) "owner" includes a mortgagee, lessee, tenant, occupant and any other person entitled to a limited estate or interest in land and a guardian, committee, executor, administrator or trustee in whom land is vested;

(*i*) "power" includes electrical, pneumatic, hydraulic, mechanical, nuclear, steam, gas or other power and also includes energy;

(*j*) "president" means the president of the Corporation;

(*k*) "supply" includes delivery, dealing in, and sale;

(*l*) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics;

(*m*) "works" includes all roads, plant, machinery, buildings, erections, constructions, installations, materials, devices, fittings, apparatus, appliances, equipment and other property for the development, generation, transformation, transmission, conveying, distribution, supply or use of power;

(*n*) if a power is conferred or a duty is imposed on the Corporation or the Board, the power may be exercised and the duty shall be performed from time to time as occasion requires. R.S.O. 1970, c. 354, s. 1; 1973, c. 57, s. 3.

PART I

THE CORPORATION

Corporation

2. Ontario Hydro is continued as a body corporate and shall be composed of those persons who from time to time comprise its Board. 1973, c. 57, s. 4, *part, revised.*

Composition of Board

3.—(1) There shall be a Board of Directors of the Corporation consisting of a chairman, a vice-chairman, a president and not more than ten other directors.

Chairman

(2) The chairman shall be appointed by the Lieutenant Governor in Council to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each.

Directors

(3) Each of the directors, other than the chairman and the president, shall be appointed by the Lieutenant Governor in Council to hold office for a term not exceeding three years and may be reappointed for two further successive terms not exceeding three years each.

Vice-chairman

(4) The vice-chairman shall be designated by the Board from among the directors appointed by the Lieutenant Governor in Council.

President

(5) The Board shall appoint the president who shall be employed by the Corporation upon such terms of employment as the Board considers desirable.

Remuneration

(6) The chairman and the other directors appointed by the Lieutenant Governor in Council shall be paid such remunera-

tion and expenses by the Corporation as may be determined from time to time by the Lieutenant Governor in Council, and such remuneration and expenses shall be part of the administration expense of the Corporation.

Seat in Assembly not vacated R.S.O. 1980, c. 235

(7) Notwithstanding anything in the *Legislative Assembly Act*, the appointment of any director of the Corporation if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any remuneration or expenses under this Act, nor does he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly.

Removal of director for cause

(8) A director appointed by the Lieutenant Governor in Council may be removed from office before the expiration of his term for cause, and the Lieutenant Governor in Council may appoint any person in his stead for the remainder of his term. 1973, c. 57, s. 4, *part*.

Powers of Board

4.—(1) The business and affairs of the Corporation are under the direction and control of the Board and the chairman shall preside at all meetings of the Board.

Meetings of Board

(2) Meetings of the Board shall be held at the call of the chairman, but in no case shall more than one month elapse between meetings of the Board.

Calling of meetings

(3) The chairman shall call a meeting of the Board immediately upon being requested to do so in writing by a majority of the other directors.

Absence of chairman

(4) In the event of the absence of the chairman and the vice-chairman from any meeting of the Board, the directors present shall elect an acting chairman who, for the purpose of the meeting, shall act as and have all the powers of the chairman.

Quorum

(5) A majority of the directors for the time being constitutes a quorum for the transaction of business at meetings of the Board. 1973, c. 57, s. 4, *part*.

Resolutions of Board

5.—(1) The Board may pass resolutions regulating its proceedings, specifying the powers and duties of the officers and employees of the Corporation and generally for the conduct and management of the business and affairs of the Corporation.

Finance committee

(2) The Board may appoint a finance committee consisting of the chairman, the vice-chairman, the president and

three other directors and may delegate to the committee the powers of the Board under sections 51 and 55, subject to the restrictions, if any, imposed from time to time by the Board.

Quorum of committee

(3) Three members of the finance committee, of whom one shall be the chairman or the vice-chairman or the president, constitute a quorum sufficient for the exercise of all the powers of the committee. 1973, c. 57, s. 4, *part*.

Chairman to act full time

6.—(1) The chairman shall devote his whole time to the performance of his duties.

Where office of chairman vacant, etc.

(2) If the office of chairman is vacant, or in the absence of the chairman from the Province or during his incapacity to act, or at the request of the chairman, the vice-chairman shall act as chairman and while so acting has all the powers and shall discharge all of the duties and functions of the chairman. 1973, c. 57, s. 4, *part*.

Officers and employees

7.—(1) The Corporation may appoint and employ upon such terms as it approves such officers and employees as it considers necessary for the conduct of the affairs of the Corporation. 1973, c. 57, s. 5 (1).

Apportionment of salaries and expenses

(2) The salaries, remuneration and expenses of persons appointed or employed by the Corporation, as well as any other expenses of the Corporation, shall be apportioned by the Corporation among, and are chargeable to, the various works and undertakings carried on by the Corporation upon which such persons are employed, but any portion of such salaries, remuneration and expenses that are not properly chargeable to such works or undertakings and that are earned or incurred in the performance of work or services other than those rendered in respect of works or undertakings of the Corporation under contract with municipal corporations are chargeable to and payable out of such moneys as are appropriated for that purpose by the Legislature.

Certain expenditures to be included as part of cost of supplying power

(3) Any expenditure heretofore or hereafter incurred by the Corporation,

(*a*) for works or services in carrying out the directions of the Lieutenant Governor in Council or for which the Corporation has had other proper authority and that has not already been included in the cost of power to municipal corporations under contract with the Corporation but that, in the opinion of the Corporation, has proved or may ultimately prove beneficial to municipal corporations under contract with the

Corporation for a supply of power, or to municipal corporations that may from time to time thereafter enter into such contracts;

(*b*) considered necessary or desirable by the Corporation in the interests of municipal corporations then or that may thereafter be under contract with the Corporation for a supply of power, in carrying on, promoting or extending the operations of the Corporation in connection with the generation, distribution or supply of power or for any work or service considered by the Corporation incidental thereto,

may be included by the Corporation as part of the cost of supplying power to any of such municipalities and shall be apportioned by the Corporation as provided in this section and section 75.

Apportionment to be final

(4) The apportionment by the Corporation of such salaries, remuneration and expenses is final. R.S.O. 1970, c. 354, s. 7 (2-4); 1973, c. 57, s. 2.

Indemnification of officers and directors

(5) Every director and every officer of the Corporation, and his heirs, executors and administrators, shall be indemnified and saved harmless by the Corporation from and against all costs, charges and expenses that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him for or in respect of any act, deed, matter or thing made, done or permitted by him in or about the execution of the duties of his office and any payments made by the Corporation with respect to such costs, charges and expenses shall be part of the administration expense of the Corporation. 1973, c. 57, s. 5 (2).

Non-liability for errors in estimates, plans, etc.

(6) Neither the Province of Ontario nor the Corporation nor any director thereof shall incur any liability by reason of any error or omission in any estimate, plan or specification prepared or furnished by the Corporation. R.S.O. 1970, c. 354, s. 7 (6); 1973, c. 57, s. 5 (3).

Fiscal year

8. The fiscal year of the Corporation is the period from the 1st day of January to the 31st day of December in the same year. R.S.O. 1970, c. 354, s. 9; 1973, c. 57, s. 2.

Annual report

9. The Corporation shall, after the close of each fiscal year, file with the Minister an annual report upon the affairs of the Corporation signed by the chairman or the vice-

chairman of the Corporation and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1973, c. 57, s. 7.

Audit of accounts

10.—(1) The accounts of the Corporation shall, upon the direction of the Lieutenant Governor in Council, be from time to time, and at least once every year, audited and reported upon by an auditor or auditors named in the direction of the Lieutenant Governor in Council.

Expenses of audits

(2) The expenses of such audits shall be fixed by the Corporation, with the approval of the Lieutenant Governor in Council, and are payable by the Corporation as part of the costs of administration of the Corporation. R.S.O. 1970, c. 354, s. 11; 1973, c. 57, s. 2.

Application of income of Corporation

11. The income of the Corporation shall be applied by the Corporation,

(*a*) to meet its necessary operating expenses;

(*b*) to the preservation, improvement, supervision, depreciation, repair, maintenance and insurance of its works;

(*c*) to the payment of the remuneration and expenses of the directors and the officers and others employed by the Corporation;

(*d*) for the operations of the Corporation under sections 57 and 69 and to meet obligations, charges and expenses arising from time to time in the course of such operations;

(*e*) to meet interest expense and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;

(*f*) to provide reserves authorized by sections 13, 14, 15 and 16; and

(*g*) to such other purposes as are authorized or required by this Act. R.S.O. 1970, c. 354, s. 12; 1973, c. 57, ss. 2, 8.

General fund

12. All special funds and the income and revenue thereof and all moneys and revenues that now are in or hereafter come into the hands of the Corporation, whether as agent,

trustee, owner or otherwise, form one fund to be known as the general fund, and the Corporation has power to make any and all expenditures out of the general fund for the purposes and objects of the Corporation without regard to the special trusts or purposes under which the general fund or any part thereof may come into its hands, and the Corporation shall account for and pay out of the general fund all moneys for which it is so accountable. R.S.O. 1970, c. 354, s. 13; 1973, c. 57, s. 2.

Reserve accounts

13.—(1) The Corporation may establish and maintain reserve accounts,

(*a*) to provide for the depreciation, reconstruction and repair of works constructed or operated by the Corporation;

(*b*) to provide a reserve as insurance against loss or damage to any property of the Corporation or loss or damage to the persons or property of others caused by or arising from the works or operations of the Corporation,

and may place to the credit of such reserve accounts and expend, use, apply, utilize and appropriate therefrom for the purposes of this section such amounts as are in the opinion of the Corporation sufficient for the purposes of this section.

Interest

(2) The Corporation may place to the credit of such reserve accounts interest at such rates as the Corporation considers equitable and just upon the balances remaining from time to time to the credit of such reserve accounts. R.S.O. 1970, c. 354, s. 14; 1973, c. 57, s. 2.

Frequency standardization reserve

14.—(1) The frequency standardization reserve account may be maintained on the books of the Corporation and the Corporation may place to the credit of such account,

(*a*) such amounts as the Corporation collects under clause 25 (*e*);

(*b*) such amounts as may be made available for the credit of this account under subsection 69 (2);

(*c*) such additional amounts as in the opinion of the Corporation are necessary for the purposes of this section;

(*d*) interest at such rates as the Corporation considers equitable and just upon balances remaining from time to time to the credit of the account.

Use of moneys

(2) Any or all of the amounts at the credit of the frequency standardization reserve account may be used in the discretion of the Corporation for meeting any expenditure or costs made or incurred under section 25, 27 or 28, except expenditure or costs made or incurred in respect of works held by it under section 83. R.S.O. 1970, c. 354, s. 15; 1973, c. 57, s. 2.

Stabilization and contingencies reserve

15.—(1) The stabilization of rates and contingencies reserve account may be maintained on the books of the Corporation, and the Corporation may place to the credit of such account,

(*a*) such amounts as the Corporation determines and collects for the purposes of this section from its customers and such other amounts as are in its opinion sufficient for the purposes of this section;

(*b*) interest at such rates as the Corporation considers equitable and just upon balances remaining from time to time to the credit of the account.

Idem

(2) Any or all of the moneys in the stabilization of rates and contingencies reserve account may be used in the discretion of the Corporation for determining, and for adjusting and apportioning, including making equitable and stabilizing, the amounts payable to the Corporation by persons or municipal corporations; and to meet any expenditures or costs caused by or arising from injury to, or destruction, obsolescence or loss of use of any works or other property of the Corporation; and to meet other contingencies arising in the operations of the Corporation; and to provide for such part of the cost of properties to be acquired or that have been acquired as is not allocated to specific works; and to meet the costs and expenses incurred by the Corporation that, in the opinion of the Corporation, are for the protection or advancement of the interests in the undertakings under its supervision or control and that are not properly chargeable to any person or specific municipal corporation to which the Corporation supplies power. R.S.O. 1970, c. 354, s. 16; 1973, c. 57, s. 2.

Sinking fund

16. The Corporation shall set apart annually as a sinking fund,

(*a*) such sums as are received by the Corporation from municipal corporations under clause 75 (*c*), and section 76, and such sums as are appropriated by the Corporation for sinking fund purposes out of the revenues received from the supply of power under section 69 to

persons within the area of a municipal corporation that has contracted with the Corporation for a supply of power at cost;

(*b*) such sums as are appropriated by the Corporation for sinking fund purposes out of the revenues received from the supply of power in the rural power district;

(*c*) such sums as are appropriated by the Corporation for sinking fund purposes for the repayment of any indebtedness incurred or assumed by the Corporation in respect of the cost of administrative service buildings and equipment, and for the restoration of any reserve or other funds of the Corporation utilized for the payment of the cost thereof. R.S.O. 1970, c. 354, s. 17; 1973, c. 57, s. 2.

Application of funds set apart as sinking fund

17. All funds set apart by the Corporation as a sinking fund under section 16 shall be used or employed,

(*a*) towards repayment of advances made by Ontario to the Corporation and towards the retirement of other indebtedness incurred or assumed by the Corporation;

(*b*) to restore reserves or other funds of the Corporation utilized for the payment of the cost of works; and

(*c*) to purchase for sinking fund purposes, and from time to time vary, securities that the Corporation is authorized to purchase under section 19. R.S.O. 1970, c. 354, s. 18; 1973, c. 57, s. 2.

Postponement of sinking fund collection

18.—(1) The Lieutenant Governor in Council may authorize the Corporation to postpone the collection or setting apart of any sums on sinking fund account to provide for the cost of any works newly constructed, acquired or performed for such period, not exceeding ten years, as is considered advisable.

Interpretation

(2) For the purposes of this section, "works", in addition to the meaning given to it in section 1, includes preliminary reports, surveys, investigations, engineering, accounting or organization work or service, or any other work or service in connection with or incidental to any proposed construction or development. R.S.O. 1970, c. 354, s. 19; 1973, c. 57, s. 2.

Management of funds

19.—(1) The Corporation, whenever it considers it advisable for the sound and efficient management of its general fund,

may from time to time, in its discretion and on such terms and conditions as it may consider advisable, purchase, acquire, hold and sell or otherwise dispose of any of the following securities:

1. The bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or Ontario or any other province of Canada.

2. The bonds, debentures or other evidences of indebtedness of the United States of America.

3. The bonds, debentures or other evidences of indebtedness of corporations referred to in clauses 388 (1) (*c*), (*e*), (*f*), (*g*), (*i*) and (*k*) of the *Insurance Act* and in which joint stock insurance companies may invest their funds.

R.S.O. 1980, c. 218

4. The deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies or by any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business.

1980-81, c. 40 (Can.)

5. The guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*. R.S.O. 1970, c. 354, s. 20 (1); 1973, c. 57, ss. 2, 9 (1).

R.S.O. 1980, c. 249

Deposit of funds

(2) The Corporation may deposit from time to time any part of its general fund in any chartered bank of Canada, in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act* or in any other bank that is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business on such terms and conditions and for such periods as the Corporation may consider expedient. 1973, c. 57, s. 9 (2).

Pension and Insurance Fund

20.—(1) The Pension and Insurance Fund of Ontario Hydro, in this section called the fund, is continued for the payment of benefits by way of pensions or superannuation allowances to, or allowances upon the death or disability of, such employees of the Corporation as the Corporation may determine in accordance with this section and any regulations made under this section, and for the purposes of this section, "employee" includes any member

or director of the Corporation who contributes or has contributed to the fund and any person in the employ of the Corporation on or after the 1st day of November, 1947. 1973, c. 57, s. 10 (1), *revised*.

Composition of fund

(2) The fund shall consist of the moneys, securities and other assets in or credited to the fund in accordance with law and such amounts as are contributed thereto by the Corporation and its employees.

Contributions of employees

(3) The contributions of the employees towards the cost of the benefits mentioned in subsection (1) shall be as prescribed by the regulations made under this section and be paid into the fund in accordance therewith.

Contributions of Corporation

(4) The Corporation shall contribute towards the cost of the benefits mentioned in subsection (1) the amount of the difference between the amount of the contributions of the employees and the amount of the cost of the benefits as determined by actuarial valuations.

Insurance
R.S.O. 1980, c. 218

(5) The Corporation may enter into agreement with one or more insurers licensed under the *Insurance Act*, for,

(*a*) providing insurance by way of death or disability benefits for such employees of the Corporation as the Corporation may determine in accordance with this section and any regulations made under this section; and

(*b*) payment by the Corporation of the cost of the benefits mentioned in clause (*a*),

and the cost referred to in clause (*b*) shall be charged by the Corporation against the fund. R.S.O. 1970, c. 354, s. 21 (2-5); 1973, c. 57, s. 2.

Ontario Hydro Pension and Insurance Plan

(6) The Ontario Hydro Pension and Insurance Plan is continued. 1973, c. 57, s. 10 (2).

Regulations

(7) Subject to the approval of the Lieutenant Governor in Council, the Corporation may make regulations with respect to the Ontario Hydro Pension and Insurance Plan, in this subsection called the "plan",

(*a*) prescribing the class or classes of employees who are eligible to be members of the plan, the time at which

membership shall commence, and the period of time thereafter within which an employee may elect not to be a member of the plan;

(*b*) providing for the payment out of the fund of the contributions made by any employee to the fund or to either of the funds superseded by the fund where the employee elects not to be a member of the plan;

(*c*) prescribing the period of employment with the Corporation alone, or with a previous or subsequent employer and the Corporation, that constitutes service for the purpose of determining pension benefits;

(*d*) providing for the transfer from or to the fund of a pension entitlement and prescribing the terms and conditions upon which pension benefits under the plan in respect of employment with a previous employer may be provided by the transfer to the fund of such a pension entitlement;

(*e*) prescribing the persons who may receive benefits under the plan;

(*f*) prescribing the contributions to the fund by employees and the rate or rates at which interest shall be calculated when payments are made out of the fund of any such contributions and of any contributions to either of the funds superseded by the fund;

(*g*) prescribing the amount for which any employee or pensioner shall be insured from time to time;

(*h*) prescribing the payments to be made from the fund, or by an insurer, upon,

(i) termination of employment,

(ii) retirement from employment on pension,

(iii) disability, or

(iv) death,

and the terms and conditions upon which, and the person or persons to whom, such payments shall be made;

(*i*) providing for payment out of the fund of the cost of any benefits provided under any agreement referred to in subsection (5);

(*j*) prescribing the intervals of time within which an actuarial valuation of the fund shall be made;

(*k*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this section. R.S.O. 1970, c. 354, s. 21 (6); 1973, c. 57, ss. 2, 10 (3, 4).

Cost to Corporation chargeable to administration

(8) The fund shall be maintained and administered by the Corporation, and the cost to the Corporation of maintaining and administering it shall be deemed to be part of the cost of the administration of the Corporation and is chargeable accordingly, and the Corporation may invest in, purchase, acquire, hold and sell investments and loans authorized by the *Pension Benefits Act* and any regulations made thereunder.

R.S.O. 1980, c. 373

No attachment, etc.

(9) The interest of any person in the fund or in any benefit payable therefrom is not subject to garnishment, attachment or seizure or any legal process and is not assignable. R.S.O. 1970, c. 354, s. 21 (7, 8); 1973, c. 57, s. 2.

Municipal employees may be included in fund

21. The Corporation, with the approval of the Lieutenant Governor in Council, may enter into agreement with any municipal corporation receiving power from the Corporation for including in the fund mentioned in section 20 employees of any commission established under the *Public Utilities Act*, or under this Act, for the management and control of works for the distribution of power in the municipality, upon such terms as to the contribution by the municipal corporation and otherwise as is considered expedient. R.S.O. 1970, c. 354, s. 22; 1973, c. 57, s. 2.

R.S.O. 1980, c. 423

REPORT ON WATER POWERS

Corporation to report on water powers, etc.

22. Whenever required by the Lieutenant Governor in Council, the Corporation shall inquire into, examine and investigate water powers or water privileges in Ontario and report upon the value and capacity thereof, with such other information as the Lieutenant Governor in Council may require. R.S.O. 1970, c. 354, s. 23; 1973, c. 57, s. 2.

ACQUISITION OF PROPERTIES

Power may be given to Corporation

23.—(1) The Lieutenant Governor in Council may authorize the Corporation at any time and from time to time

to acquire by purchase, lease, or in any other manner, or without the consent of the owner thereof to enter upon, take possession of, expropriate and use, any land, lake, river, stream or other body of water or watercourse, and temporarily or permanently to divert or alter the boundaries or course of any lake, river, stream or other body of water or watercourse, or raise or lower the level of the same or flood or overflow any land.

Power may be given to Corporation,

(2) In particular, but without limiting the generality of subsection (1), the Lieutenant Governor in Council, upon the recommendation of the Corporation, may authorize the Corporation to,

to acquire lands, waters, powers and works

(*a*) acquire by purchase, lease or otherwise, land, waters, water privileges, water powers, buildings and works used for, or adapted or useful for, or capable of being used or made useful for generating, transforming, transmitting, distributing or selling power; enter upon, take possession of, expropriate, acquire and use any such land, waters, water privileges, water powers, buildings and works without the consent of the owner thereof, or of any person in any manner entitled to any right, title, interest, claim or demand thereto or therein; and have and hold them however acquired or obtained, and develop, utilize, use, maintain, operate and improve them for any of the purposes of this Act;

to acquire assets and undertaking of companies

(*b*) acquire by purchase the whole or any part of the property, assets and undertaking of any corporation engaged in the production or sale of power, including shares held or owned by the corporation in any other company or companies of any kind or nature whatsoever, and to acquire the whole or any part of the properties, assets and undertakings of such other company or companies and to hold, develop, utilize, use, maintain, operate and improve any property or properties so acquired;

to acquire and construct works for production and use of power

(*c*) generate and produce power at places in Ontario by the use of water, coal, steam or oil, or by any other means, and transform, transmit, make available for use, distribute, deliver, sell, supply and generally use for the purposes of the Corporation such power and connect the works constructed or installed for these purposes with any other power works and with any system;

(*d*) for the purposes of clause (*c*) acquire by purchase lease or otherwise, hold, improve and use real and personal property, acquire by purchase or otherwise water, coal, steam, oil and other supplies, and construct, maintain and operate works, including without limiting the generality of the foregoing, development works, generating plants, transformer stations, transmission lines, switching and regulating works, distribution lines, access and other roads, and all other equipment, plant and works and things required for or incidental to any of such purposes; to acquire and use real and personal property for the generation and use of power

(*e*) acquire by purchase, lease or otherwise, lands, works, waters, water privileges and water powers upon or adjacent to the boundary line between Ontario and any other province and situate in Ontario, or in such other province, or partly in one and partly in the other of them, and erect, construct, maintain and operate upon any lands so acquired, works for the generation, transformation and transmission of power, and enter into agreements with the Crown in right of such other province or with any commission appointed by the Lieutenant Governor in Council of such other province or otherwise lawfully appointed or any other person interested in or affected by such works as to the terms and conditions upon which such works shall be constructed and operated and any rights so acquired be exercised; to acquire works on provincial boundaries

(*f*) acquire by purchase in the open market or otherwise shares or stock of any company owning or controlling any such lands, waters, water privileges, water powers or works; to acquire shares in companies operating on such boundaries

(*g*) construct, maintain and operate, and acquire by purchase, lease or otherwise, or without the consent of the owner thereof or of any person interested therein, enter upon, take possession of, expropriate and use all erections, machinery, plant and other works and appliances for the transmission, transformation, supply and distribution of power, and conduct, store, transmit, transform and supply power for the purposes of this Act, and with lines of wires, poles, conduits, pipes, motors, transformers or other conductors, equipment or devices, receive, conduct, convey, transmit, transform, distribute, supply or furnish such power to or from or for any person at any place, through, over, under, along, upon or across any land, public highway or public place, stream, water, watercourse, bridge, viaduct or railway, and through, over, upon or under the land of any person; to acquire plant for transmitting and transforming power

to contract for supply of power to Corporation

(*h*) contract with any person generating, transmitting or distributing power, or proposing so to do, to supply power to the Corporation, and require any person generating, transmitting or distributing power to supply so much thereof as the Corporation may require;

to flood lands and improve water powers

(*i*) enter upon, take and use, without the consent of the owner thereof, any land upon which any water power or privilege is situate, or any lake, river, stream or other body of water that, in the opinion of the Corporation, is capable of improvement or development for the purpose of providing water power, and construct such dams, sluices, canals, raceways and other works as are considered proper or expedient for such purposes, and flood and overflow any land to the extent to which the Corporation considers necessary for the purpose of providing storage of the water or for any other purpose in connection with such works, and contract with any municipal corporation, company or individual for the use of any of the improvements or works so made, on such terms and conditions as may be agreed upon;

to acquire flooded lands on behalf of municipality

(*j*) enter upon, take and use, without the consent of the owner thereof, any land that may, in the opinion of the Corporation, be necessary for the full enjoyment and exercise of any water right, water privilege or improvement undertaken by the Corporation or by any municipal corporation or for the relief of the municipal corporation from liability for damages for the flooding or overflowing of such lands; but subject to subsection 40 (1), the proceedings taken under this clause shall be at the sole expense of the municipal corporation, and the Corporation may convey the lands so acquired to the municipal corporation or make such other disposition thereof with the consent of the municipal corporation as is considered expedient;

to acquire distributing plant

(*k*) acquire by purchase or expropriate any plant, machinery, appliances, wires, poles and other equipment, and the land occupied by or used in connection therewith or any part thereof, used or intended for the distribution of power in a municipality whose corporation has entered into an agreement with the Corporation for the supply of power and contract for the sale and transfer to such municipal corporation of such plant, equipment and land upon such terms and for such price, not being less than the price paid by the Corporation, with the expenses in

connection with such purchase or expropriation added thereto, as may be agreed upon;

to acquire shares in corporations

(*l*) acquire from time to time by purchase in the open market or otherwise, shares or stock in or the securities of any corporation carrying on the business of developing, distributing or transmitting power and for the purposes of this Act the acquisition of such shares, or stock, or securities is an investment in works;

to acquire stock in development corporations

(*m*) acquire by purchase or otherwise on any terms and hold shares in any corporation carrying on the business of developing, supplying or transmitting power, and in connection with any such acquisition enter into any covenants and agreements, and pay for any such shares either in cash or in bonds, debentures or other securities of the Corporation, and guarantee, or covenant or agree for or in respect of the payment or performance of any bonds, debentures, securities, contracts or obligations of any corporation whose shares are so acquired, or of any corporation whose shares are held by any corporation whose shares are so acquired, and for the purposes of this Act the acquisition of shares of such corporations shall be deemed to be an investment in works;

to lease or operate works of others

(*n*) lease or operate the works for the generation, transmission, distribution or use of power of any person, firm or corporation on such terms as the Corporation arranges with the owner. R.S.O. 1970, c. 354, s. 24 (1, 2); 1973, c. 57, s. 2.

The Corporation has powers of Minister of Government Services

(3) In relation to all matters authorized by the Lieutenant Governor in Council under this section, the Corporation has and may exercise and enjoy, in addition to the powers conferred by this or any other Act, all the powers conferred upon the Minister of Government Services in relation to a public work by the *Ministry of Government Services Act*, and in the application of this section, where the words "the Minister", "the Ministry", "Her Majesty" or "the Crown" appear in that Act, they, where the context permits, mean the Corporation and where land or property is taken compulsorily by the Corporation, such taking shall be deemed to be for the public purposes of Ontario. R.S.O. 1970, c. 354, s. 24 (3); 1972, c. 1, s. 1; 1973, c. 2, s. 2; 1973, c. 57, s. 2.

R.S.O. 1980, c. 279

Authorizations may be retroactive

(4) The Lieutenant Governor in Council may direct that any authorization to the Corporation heretofore or hereafter

given be retroactive, in which case the authorization shall be deemed to have taken effect from the time so fixed.

Exercise of powers not to be enjoined, etc.

(5) No act or proceeding of the Corporation pursuant to any authorization of the Lieutenant Governor in Council under this section shall be restrained by injunction or other process or proceeding in any court.

R.S.O. 1980, c. 446 not to apply

(6) The *Regulations Act* does not apply to any authorization by the Lieutenant Governor in Council under this section. R.S.O. 1970, c. 354, s. 24 (4-6); 1973, c. 57, s. 2.

Change of frequency

24. Subject to the approval of the Lieutenant Governor in Council and notwithstanding any agreement between the Corporation and any person, the Corporation may change the periodicity in alternations of current at which it supplies power to any person. R.S.O. 1970, c. 354, s. 25; 1973, c. 57, s. 2.

Powers of Corporation on frequency change-over

25. Subject to the approval of the Lieutenant Governor in Council, the Corporation may,

(*a*) for the purposes of standardizing and making uniform the periodicity in alternations of current at which it supplies power, alter, reconstruct, rebuild, reassemble, construct, extend, replace or do whatever else may be necessary in respect of its works, works held by it under section 83 and, with their consent, works wherever situate of other persons who are supplying or purchasing or otherwise delivering or accepting delivery of power to or from the Corporation;

(*b*) for the purposes of standardizing and making uniform the periodicity in alternations of current at which power generated or procured by it is utilized and with the consent of the owner, alter, reconstruct, rebuild, reassemble, construct, extend, replace or do whatever else may be necessary in respect of the equipment, apparatus, appliances, devices and works of any person by which such power is taken and used, except meters of any municipal corporation or commission or the equipment, apparatus, appliances, devices or works of any municipal corporation or commission used for distribution stations or distribution or street lighting systems;

(*c*) bear the expense of anything done under clause (*a*);

(*d*) bear the expense of anything done under clause (*b*) to the equipment, apparatus, appliances, devices or

works of commercial lighting consumers, or domestic or rural consumers other than rural power consumers;

(*e*) charge to and collect from the owners of equipment, apparatus, appliances, devices or works other than the equipment, apparatus, appliances, devices or works mentioned in clause (*d*) the expense of anything done thereto under clause (*b*) to the extent approved by the Lieutenant Governor in Council and bear the balance of such expense. R.S.O. 1970, c. 354, s. 26; 1973, c. 57, s. 2.

Frequency standardization by municipalities

26.—(1) The powers of the Corporation under clause 25 (*b*) with respect to the equipment, apparatus, appliances, devices and works of any person to whom a municipal corporation or commission supplies power that is supplied to it by the Corporation may, with the assent of the Corporation, be exercised by the municipal corporation or commission.

Where Corporation may bear cost

(2) Where pursuant to subsection (1) the powers are exercised by a municipal corporation or commission in respect of the equipment, apparatus, appliances, devices or works mentioned in clause 25 (*d*), the Corporation may bear the expense thereof.

Where cost may be apportioned

(3) Where under subsection (1) the powers are exercised by a municipal corporation or commission in respect of equipment, apparatus, appliances, devices or works other than those mentioned in clause 25 (*d*), such portion of the expense as the Corporation could have charged to and collected from owners of the equipment, apparatus, appliances, devices or works if the Corporation had exercised the powers itself, may, with the assent of the Corporation, be charged to and collected from the owners by the municipal corporation or commission and the balance borne by the Corporation. R.S.O. 1970, c. 354, s. 27; 1973, c. 57, s. 2.

Reduction of cost of frequency change-over

27. The Corporation may do whatever will in its opinion effect a reduction in the cost of anything done or to be done under clause 25 (*a*) or (*b*). R.S.O. 1970, c. 354, s. 28; 1973, c. 57, s. 2.

Change made by owner

28. Where the owner of any equipment, apparatus, appliances, devices or works by which is utilized power generated or procured by the Corporation changes them with the approval of the Corporation in order to take the power at a changed periodicity in alternations in current, the Corporation may bear the expense of the change to the same extent as

if it had effected the change itself under clause 25 (*b*). R.S.O. 1970, c. 354, s. 29; 1973, c. 57, s. 2.

Ownership of replaced equipment

29. Equipment, apparatus, appliances, devices or works, or any part thereof, replaced by the Corporation under clause 25 (*b*) becomes the property of the Corporation. R.S.O. 1970, c. 354, s. 30; 1973, c. 57, s. 2.

Conversion not a breach of contract

30. Nothing done under section 24 shall be deemed to be a breach of contract by the Corporation or entitles any person to rescind any agreement or release any guarantor from the performance of his obligation. R.S.O. 1970, c. 354, s. 31; 1973, c. 57, s. 2.

Limitation of actions arising from frequency change-over

31.—(1) No action shall be brought against any person in respect of anything done under section 24, 25, 26 or 27 after the expiration of one year commencing on the date when the cause of action arose.

Notice of claim

(2) No action shall be brought against any person in respect of anything done under section 24, 25, 26 or 27 unless notice in writing of the claim has been served upon or sent by registered mail to such person within ninety days after the cause of action arose.

No right of action in certain cases

(3) No action shall be brought against any person, and no person is liable for loss of use of anything, or loss of production of or by anything, or loss of profits by reason of anything done under section 24, 25, 26 or 27.

Saving

(4) Subsections (1) and (2) do not apply to any action between the Corporation and any person arising from any agreement between the Corporation and such person for the doing by such person for the Corporation of anything under section 24, 25, 26 or 27. R.S.O. 1970, c. 354, s. 32; 1973, c. 57, s. 2.

Mode of exercising and extent of powers

32.—(1) Whenever the Corporation has been authorized by the Lieutenant Governor in Council to exercise any of its powers with respect to conducting, conveying, transmitting, distributing, supplying, furnishing or delivering power, it may enter upon, take possession of and use for such time as the Corporation considers desirable any land that the Corporation considers to be required for the due exercise of any of its powers with respect to conducting, conveying, transmitting, distributing, supplying, furnishing or delivering of power, and may construct upon the land any works requisite for any such purpose.

(2) The powers conferred upon the Corporation by or under this Act include the right to enter upon any land upon either side of the right of way acquired for the transmission or distribution lines or works of the Corporation, or upon any land upon either side of such lines or works, and to fell or remove any trees or branches thereof or any other obstruction upon any such land or upon any public highway or place that, in the opinion of the Corporation, it is necessary to fell or remove. R.S.O. 1970, c. 354, s. 33; 1973, c. 57, s. 2. Removal of trees and obstructions beside right of way

33. Where a power exercised under section 23 or 32 constitutes an expropriation or injurious affection, the *Expropriations Act* applies. R.S.O. 1970, c. 354, s. 34. Application of R.S.O. 1980, c. 148

34.—(1) Where a power exercised under section 23 or 32 does not constitute an expropriation or injurious affection, compensation shall be paid to the owner for all damage to property resulting from the exercise of the power in accordance with this section, but where the lines or works of the Corporation are situate upon a highway, whether it be the King's Highway or any other highway, compensation is payable only to the extent to which it is payable by a municipality for felling or removing trees or branches thereof under section 313 of the *Municipal Act*. Compensation for damage R.S.O. 1980, c. 302

(2) The Lieutenant Governor in Council may from time to time appoint a board of valuation consisting of as many members as he from time to time determines, one of whom shall be named chairman, who shall receive their reasonable and necessary travelling and other expenses and such fees as may be fixed by the Lieutenant Governor in Council, and the same shall be paid by the Corporation as part of its general administration expense, and, when no agreement is arrived at as to the amount of compensation to be paid to the owner, the board of valuation shall, as soon as conveniently may be after a request to them either from the owner or the Corporation, make such inquiries and inspection and procure such expert advice as they may think desirable and fix and determine the compensation to be paid for such property damage, and notify by registered mail the owner and the Corporation of such findings, and three members of the board of valuation shall form a quorum and be sufficient for the exercise of all the jurisdiction and powers of the board. Appointment and powers of board of valuation

(3) Either the owner or the Corporation, if dissatisfied with the amount of the compensation so fixed, may appeal within sixty days after the mailing of the notice of finding by the board of valuation by giving notice to the other that an appeal is desired. Appeal from valuator

Who to hear appeals

(4) An appeal from the board of valuation shall be heard and determined by the Ontario Municipal Board or a member thereof, provided however that the Lieutenant Governor in Council may from time to time designate a judge of the Supreme Court or a judge of a county or district court to hear and dispose of any such appeal or appeals, and where the Corporation gives notice to the owner that an appeal is to be determined by a judge instead of by the Board or a member thereof, the judge designated shall hear and determine such appeal, and if a judge is so designated he shall receive his reasonable and necessary travelling expenses and such fee as is fixed from time to time by the Lieutenant Governor in Council and the same shall be paid by the Corporation as part of its general administration expense.

Powers of judge or Board on appeal

(5) The judge or Board or member thereof, as the case may be, shall appoint such time and place and give such notice of the hearing of appeals as is thought proper and most convenient and the judge or Board or member thereof has for the purposes of this section all the powers that are conferred upon the Ontario Municipal Board by sections 34 and 37 of the *Ontario Municipal Board Act* and the provisions of that Act with respect to procedure and the enforcement of orders made thereunder from time to time apply with necessary modifications.

R.S.O. 1980, c. 347

Costs of appeal

(6) In the notice of appeal the appellant shall set out the amount that the appellant deems proper to have been fixed by the board of valuation and if, where the owner is the appellant, he fails to recover anything more than the amount fixed by the board of valuation, or if, where the Corporation is the appellant, it fails to have the amount so fixed reduced, then the costs of the proceedings as between party and party are payable by the appellant, and if, under this subsection, the costs are payable to the Corporation, they may be deducted from the compensation payable.

Scale of costs

(7) The costs of the proceedings may be fixed by the judge or Board or member thereof at such amount as is considered proper, due regard being had to the difference between the amount fixed by the board of valuation and the amount awarded by the judge or Board or member thereof, or may be directed to be taxed upon the scale of the small claims, county or Supreme Court scale, as the case may be, and, if it appears on such appeal that the claim to compensation put forward by the owner is grossly excessive, and the expense of the Corporation has been thereby increased, the judge or Board or member thereof may fix and allow to the Corporation by way of set-off against such costs as are awarded to the owner hereunder, the amount of such excess expense.

Mode of perfecting title

(8) The owner shall, upon reasonable notice which, if written, may be given by mailing it by registered mail addressed to him at his last known place of residence, attend at a place to be fixed by the Corporation and execute such necessary instruments or documents as the Corporation requires upon tender to him of the Corporation's cheque for the amount awarded by the judge or Board or member thereof or fixed by the board of valuation, and costs, if any, less such costs as have been awarded against him.

Appeals

(9) The Corporation or the owner may, subject to subsection 35 (2), appeal to the Divisional Court from the order of the judge or the Board or member thereof.

R.S.O. 1980, c. 347 to apply

(10) Where the appeal is taken under subsection (9), section 95 of the *Ontario Municipal Board Act* as to appeals from the Board applies. R.S.O. 1970, c. 354, s. 35; 1973, c. 57, s. 2.

Owner to give notice of crop damage

35.—(1) Notwithstanding section 34, where a claim is made against the Corporation for damage to crops, gardens, shrubs, trees or other growing things, caused by or incidental to the construction, maintenance or repair of poles, wires, towers or works included in or connected with power transmission lines, notice of the claim shall be given in writing, signed by the claimant at as early a date as possible, so that the nature, character, extent and evidence of the damage may still be apparent, and in any case not later than sixty days after the cause for complaint arose.

Effect of failure to give notice

(2) If a claim is made after the time limited by subsection (1) and the claimant failed to give the notice therein required, either the Corporation or the owner may, notwithstanding such failure, request the board of valuation to attend and investigate the damage complained of, and the board of valuation, if satisfied that there was reasonable excuse for the failure to give or the insufficiency of the notice and that the Corporation was not thereby prejudiced, may award such compensation as appears to him to be just, and in that event the finding of the board of valuation is final and binding upon the owner and the Corporation. R.S.O. 1970, c. 354, s. 36; 1973, c. 57, s. 2.

Powers of Corporation as to lines on highways

36. In the exercise of the powers conferred and in carrying out any work authorized by this Act or any other general or special Act, the Corporation has and always has had authority to put down, carry, construct, erect and maintain such conduits, wires, poles, towers and other equipment and works used in the generation, transmission or distribution of power as it considers necessary or desirable, under, along,

across or upon any public street or highway and to remove or replace them without taking any of the proceedings prescribed by the *Expropriations Act* for the taking of land without the consent of its owner, and the provisions of the *Expropriations Act* with regard to compensation do not apply, but the location of any such conduits, wires, poles, towers, equipment or works to be put down, carried, constructed or erected under, along, across or upon a public street or highway shall be agreed upon by the Corporation and the municipal corporation or other authority having control of the public street or highway, and in case of disagreement shall be determined by the Ontario Municipal Board. R.S.O. 1970, c. 354, s. 37; 1973, c. 57, s. 2.

R.S.O. 1980, c. 148

Buildings

37.—(1) Subject to the *Expropriations Act*, the Corporation may expropriate, purchase, lease or otherwise acquire lands that the Corporation considers necessary for office, service, or other buildings and may erect thereon such buildings and works as the Corporation requires for its purposes.

Expense repayable by municipalities

(2) All expenditures by the Corporation for the purposes mentioned in subsection (1) are repayable to the Corporation by the municipal corporations having contracts with the Corporation, and shall be repaid by annual sums sufficient to form in forty years a sinking fund for the repayment of the cost thereof. R.S.O. 1970, c. 354, s. 38; 1973, c. 57, s. 2.

Disposal of works to a municipality

38.—(1) The Corporation, upon such terms as it considers proper, may sell, lease or otherwise dispose of to a municipal corporation or commission any land or works, or any interest therein, that the Corporation is or has been using and such sale, lease or other disposal shall be deemed to be an agreement within the meaning of clause 149 (2) (*s*) of the *Municipal Act*. 1973, c. 57, s. 11 (1).

R.S.O. 1980, c. 302

Acquiring property from municipality

(2) The Corporation may acquire from a municipal corporation or commission by purchase, lease or otherwise, upon such terms as the Corporation considers proper, any works or other property, real or personal, that the Corporation considers advisable for its purposes and such municipal corporation or commission may lease, sell or otherwise dispose of such works or other property to the Corporation without the assent of the electors or the approval of the Ontario Municipal Board required by section 36 of the *Public Utilities Act*, but otherwise such municipal corporation or commission shall comply with that section. R.S.O. 1970, c. 354, s. 39 (2); 1973, c. 57, s. 2.

R.S.O. 1980, c. 423

Joint use of works

(3) The Corporation, upon such terms as it considers proper, may contract with any corporation, firm or person for joint

ownership or joint use of works or for rights to use the works of any corporation, firm or person or to permit any corporation, firm or person to use works of the Corporation, and for the purposes of this subsection, works include telephone and telegraph lines and other communication works either of the Corporation or of any other corporation, firm or person in addition to the things mentioned in clause 1 (*m*). R.S.O. 1970, c. 354, s. 39 (3); 1973, c. 57, ss. 2, 11 (2).

Sale of property

(4) The Corporation may, upon such terms as it considers proper, sell, lease or otherwise dispose of any property, real or personal, that it finds unnecessary for its purposes.

Use of right of way

(5) The Corporation may contract with a railway company or power or transmission company for the use of its right of way and property for the purposes of the Corporation. R.S.O. 1970, c. 354, s. 39 (4, 5); 1973, c. 57, s. 2.

Powers of expropriation 1951, c. 55; 1952 (2nd Sess.), c. 3

39. The compulsory powers conferred by this Act or by *The Niagara Development Act, 1951* or by *The St. Lawrence Development Act, 1952* (*No. 2*) extend to land, works, rights, powers, privileges and property notwithstanding anything in this Act or in any general or special Act and notwithstanding that they are or may be deemed to be devoted to a municipal or any other public use or that the owner thereof possesses the power of taking land compulsorily and notwithstanding the origin, nature or sources of the owner's title thereto, whether statutory or otherwise or the manner whereby it was acquired by the owner or by any of his predecessors in title. R.S.O. 1970, c. 354, s. 40.

Adjustment of proportions of cost of works on waters

40.—(1) Where in the exercise of the powers conferred by this Act the Corporation constructs any works or improvements upon any lake, river, stream or other body of water, the Lieutenant Governor in Council may direct a judge of the Supreme Court or the judge of a county or district court to inquire into and determine the proportion in which any municipal or other corporation, company or individual owning a water power or water power site, whether developed or not, is benefitted by such works or improvements, and the judge may make an order fixing the proportion in which the cost of such works and improvements shall be borne by any such municipal or other corporation, company or individual and by Ontario respectively.

Powers of judge on inquiry

(2) The judge, upon an inquiry under this section, has the like powers as a judge sitting in court, including the power to compel the attendance of witnesses, to hear evidence on oath and to require the production of books, papers, documents,

matters and things, and the order of the judge is enforceable in the manner provided by the *Judges' Orders Enforcement Act*.

R.S.O. 1980, c. 222

Costs

(3) No costs shall be awarded to any party appearing before the judge or otherwise interested in the inquiry.

Fees and expenses

(4) The judge shall be paid such fees and expenses as are fixed by the Lieutenant Governor in Council.

Costs of works, etc., what to include

(5) For the purposes of this section, the cost of the works or improvements shall be deemed to include all expenditures, charges and expenses as fixed by the Corporation made or incurred by it in respect of the construction of such works or improvements, extensions and additions thereto, interest charges, operating expenses, repairs and maintenance, down to the date of the order of the judge, the fees and expenses of the judge and the expenses incurred by the Corporation in connection with the inquiry.

Appeal

(6) Any municipal or other corporation, company or individual affected by the order made under subsection (1) may, with the consent in writing of the Corporation, appeal from such order to the Divisional Court.

Sinking fund

(7) The Corporation may establish a sinking fund to be provided by the parties in the proportions directed by the order of the judge sufficient to discharge and pay off the cost of such works or improvements and such of the capital cost as may be incurred from time to time by the Corporation after the date of the order of the judge within such periods as the Corporation fixes having regard to the life of such works or improvements and not exceeding forty years.

Annual apportionment of costs by Corporation

(8) The Corporation shall, subsequent to the order of the judge, annually fix and determine the cost, charges or expenses incurred by it from time to time in the operation, maintenance, repair and renewal of such works and shall apportion and charge the same against the parties in the proportions fixed by the order of the judge, together with the payments in respect of sinking fund hereinbefore mentioned and the amounts so charged are payable on demand recoverable in the manner hereinafter provided.

Allowance for previous expenditure

(9) In fixing the amounts so payable the Corporation shall give credit for any amount theretofore contributed to the cost of such works and improvements by a municipal or other corporation or by any company or individual.

Recovery of amount assessed

(10) The amount so found payable by a municipal corporation is recoverable in the like manner as in the case of a charge for any other service rendered by the Corporation to a municipal corporation and in the case of any other corporation or of a company or an individual the amount so found due constitutes a debt due to the Corporation and is recoverable in any court of competent jurisdiction from the owners from time to time of the lands so found by the order of the judge or of the Divisional Court, such order is final and constitutes a lien or charge upon such lands enforceable in the same manner and by the same proceedings as nearly as may be as in the case of a charge in favour of the Crown.

Share of Ontario, how payable

(11) Where a proportion of the cost of such works and improvements is to be borne by the Province of Ontario, the amount due from time to time in respect thereof is payable out of the moneys appropriated by the Legislature for that purpose.

Effect of order

(12) When the proportions in which the cost of such works or improvements is to be borne have been fixed by order of the judge or of the Divisional Court, such order is final and binding unless it appears to the Corporation that owing to change of circumstances or conditions in respect of such works or improvements it is equitable that there should be a readjustment of the proportions theretofore fixed by the order of the judge, and in that case, upon the application of any person liable to contribute to the cost of such works or improvements, made with the consent in writing of the Corporation, the judge may make further inquiry and may readjust such proportions to be thereafter applied in such manner as he considers just and equitable, subject to appeal as hereinbefore provided. R.S.O. 1970, c. 354, s. 41; 1973, c. 57, s. 2.

R.S.O. 1980, c. 240, not applicable

41. Where possession of land of the Corporation has been taken by some other person, the right of the Corporation, or anyone claiming under it, to recover it, is not barred by reason of the lapse of time, notwithstanding the *Limitations Act*, or any other Act of the Legislature, or by reason of any claim based on possession adverse to it for any period of time that might otherwise be made lawfully at common law, unless it is shown that the Corporation had actual notice in writing of such adverse possession, and such notice was had by it ten years before it or the person claiming under it commenced action to recover such land; provided that no claim shall be acquired by possession, prescription, custom, user or implied grant to any way, easement, watercourse or use of water or water right or privilege or flooding privilege of the Corporation, or to any way, easement, watercourse, or use of water,

or right of drainage along, over, upon, on or from any land, or water, or water right, or privilege of the Corporation, notwithstanding the *Limitations Act* or any other Act of the Legislature or any claim at common law based on lapse of time, or length of enjoyment or use. R.S.O. 1970, c. 354, s. 42; 1973, c. 57, s. 2.

R.S.O. 1980, c. 240

Continuance of easements, etc.

42. Notwithstanding any other Act, where any right, interest, way, privilege, permit or easement has heretofore been, or is hereafter acquired by the Corporation, in, through, over, under, along, upon, across or affecting any land, unless it is otherwise agreed, the land continues subject thereto for the term thereof and it is binding upon the owner at the time of acquisition and all subsequent owners of the land until expiration or release by the Corporation. R.S.O. 1970, c. 354, s. 43; 1973, c. 57, s. 2.

Ownership of works retained

43. Notwithstanding this Act or any other general or special Act, where works of the Corporation have been affixed to realty they remain subject to the rights of the Corporation as fully as they were before being so affixed and do not become part of the realty unless otherwise agreed by the Corporation in writing. R.S.O. 1970, c. 354, s. 44; 1973, c. 57, s. 2.

Affixing signs on property prohibited

44.—(1) Every person who without the consent of the Corporation nails or otherwise attaches anything, or causes anything to be nailed or otherwise attached to or upon any property of the Corporation is guilty of an offence and on conviction is liable to a fine of not less than $5 and not more than $10.

Disposition of fines

(2) The fines recovered for offences against subsection (1) shall be paid over to the Corporation. R.S.O. 1970, c. 354, s. 45; 1973, c. 57, s. 2.

TAXATION

Easement over lands sold for taxes not affected

45. Notwithstanding any other Act, where land that was or is subject to easements, ways, rights of way or entry, flooding rights, licences or rights to maintain works thereon, owned by or belonging to the Corporation, has been or is sold for taxes, or in respect of which a tax arrears certificate has been or is registered, such easements, ways, rights of way or entry, flooding rights, licences, or rights to maintain works shall be deemed not to have been or be affected by the sale or registration. R.S.O. 1970, c. 354, s. 46; 1973, c. 57, s. 2.

Tax exemption R.S.O. 1980, c. 31

46.—(1) Notwithstanding the *Assessment Act* or any other general or special Act the Corporation and its property is not

subject to taxation for municipal or school purposes, except for local improvements.

Annual payments to municipalities

(2) The Corporation shall pay in each year to any municipality in which are situated lands owned by and vested in the Corporation or buildings used exclusively for executive and administrative purposes and owned by and vested in the Corporation or buildings owned by and vested in the Corporation and rented by the Corporation to other persons the total amount that all rates, except, subject to subsections (4) and (5), rates on business assessment, levied in that municipality for taxation purposes based on the assessed value of the land at the actual value thereof according to the average value of land in the locality and the assessed value of such buildings would produce. R.S.O. 1970, c. 354, s. 47 (1, 2); 1973, c. 57, s. 2.

Idem

(3) In addition to the amounts payable under subsection (2), the Corporation shall pay in each year to any municipality in which are situated generating station buildings or transformer station buildings owned by and vested in the Corporation the total amount that all rates except, subject to subsections (4) and (5), rates on business assessment, levied in that municipality for taxation purposes would produce based on an assessed value of such buildings to be determined on the basis of $86.11 for each square metre of inside ground floor area of the actual buildings housing the generating, transforming and auxiliary equipment and machinery multiplied by the equalization factor used in the year 1978 by the Ministry of Revenue. R.S.O. 1970, c. 354, s. 47 (3); 1972, c. 1, s. 73 (3); 1973, c. 57, s. 2; 1978, c. 87, s. 16; 1979, c. 88, s. 6.

Idem

(4) The Corporation shall also pay the amount that the current rates for business assessment levied on assessment on,

(*a*) lands owned by and vested in the Corporation;

(*b*) buildings used exclusively for executive and administrative purposes and owned by and vested in the Corporation; and

(*c*) generating station buildings and transformer station buildings owned by and vested in the Corporation,

would produce, based on 60 per cent of the assessed value of such land and buildings as calculated and determined under subsections (2) and (3).

Idem

(5) The Corporation shall also pay the amount that the current rates on business assessment would produce on land

and buildings owned or occupied by the Corporation for carrying on the business of selling by retail electrical goods, supplies or appliances.

Limitation

(6) Notwithstanding subsections (2), (3), (4) and (5), the total amount payable thereunder by the Corporation to any municipality in any year shall not exceed 50 per cent of the total of the amounts required for the purposes of the municipality and of all of its local boards being raised by the imposition, rating and levying of all rates, assessments and taxation, except local improvement rates, upon rateable property in the municipality in that year.

Distribution of payments, municipal portion

(7) Subject to subsections (8) and (9), the payments received under subsections (2), (3), (4) and (5) shall be credited by the municipal corporation to its general fund.

Idem, county portion

(8) The portion of the payments received under subsections (2), (3), (4) and (5) that is attributable to levies for county purposes shall be paid by the municipal corporation to the county that would have been entitled thereto if the land had been assessed and taxed in the usual way.

Idem, elementary or secondary school portion

(9) The portion of the payments received under subsection (2) in respect of dwelling houses, including farm properties, rented by the Corporation to other persons that is attributable to levies for elementary or secondary school purposes, shall be paid by the municipal corporation to the school boards that would have been entitled thereto if the land had been assessed and taxed in the usual way, and for the purposes of this subsection the tenants of such dwelling houses and farm properties shall be deemed to be rated as tenants on the assessment roll of the municipality.

Use of valuations for computing rates

(10) The valuations made under this section shall be used for the purpose of computing county rates, school rates and legislative grants in all respects as though the properties valued were not exempt from taxation for such purposes.

Pupil's status

(11) Where a school board is entitled to a payment under subsection (8) with respect to the property in which a pupil resides with his parent or guardian, any child whose parent or guardian is the tenant of the property shall be deemed to be a resident pupil under the jurisdiction of such school board. R.S.O. 1970, c. 354, s. 47 (4-11); 1973, c. 57, s. 2.

Valuation

(12) The assessments and assessed values referred to in this section are valuations made in each year for the purposes of this section by the Ministry of Revenue, and subject to subsections (2), (3), (4) and (18) the valuations shall be made on the

same basis as real property liable for municipal taxation in the municipality. R.S.O. 1970, c. 354, s. 47 (12); 1972, c. 1, s. 73 (3).

Treasurer's decision

(13) The decision of the Treasurer of Ontario as to whether this section applies to any property of the Corporation is final. R.S.O. 1970, c. 354, s. 47 (13); 1972, c. 1, s. 73 (3); 1973, c. 57, s. 2.

Valuation notice

(14) The Ministry of Revenue shall, on completion of the valuation of the Corporation's property in a municipality, deliver or mail to the clerk of the municipality and to the Corporation a notice setting out the valuations referred to in subsection (12). R.S.O. 1970, c. 354, s. 47 (14); 1972, c. 1, s. 73 (3); 1973, c. 57, s. 2.

Appeals

(15) The municipality or the Corporation may appeal to the Ontario Municipal Board against the valuation and a notice of appeal to the Board under this subsection shall be sent by the party appealing, by registered mail, to the secretary of the Board within twenty-one days after the notice of the valuation has been delivered or mailed under subsection (14).

Hearing

(16) Upon receipt of a notice of appeal under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof to all parties concerned in the appeal at least fourteen days before the hearing.

Jurisdiction on appeal

(17) The Ontario Municipal Board upon appeal shall determine the amount at which the property in question shall be valued and its decision is final and binding and there is no appeal therefrom.

Exemptions

(18) In making the valuations referred to in subsection (12), there shall be no value included for machinery whether fixed or not nor for the foundation on which it rests, works, structures other than buildings referred to in subsection (2), (3) or (5), substructures, superstructures, rails, ties, poles, towers, lines nor any of the things excepted from exemption from taxation by paragraph 17 of section 3 of the *Assessment Act*, nor for other property, works or improvements not referred to in subsection (2), (3) or (5), nor for an easement or the right or use of occupation or other interest in land not owned by the Corporation. R.S.O. 1970, c. 354, s. 47 (15-18); 1973, c. 57, s. 2.

R.S.O. 1980, c. 31

ADVANCES AND LOANS

Government authorized to raise funds for work of Corporation R.S.O. 1980, c. 161; 1951, c. 55; 1952 (2nd Sess.), c. 3

47. The Lieutenant Governor in Council may raise by way of loan in the manner provided by the *Financial Administration Act* such sums as he considers requisite for the purposes of this Act and of *The Niagara Development Act, 1951* and of *The St. Lawrence Development Act, 1952 (No. 2)*, and the sums so raised may either be advanced to the Corporation or applied by the Treasurer of Ontario in the purchase of notes, bonds, debentures or other securities of the Corporation issued by the Corporation under this Act. R.S.O. 1970, c. 354, s. 48; 1973, c. 57, s. 2.

Payment over to Corporation of moneys appropriated

48. Where the Legislature has appropriated money for the purposes of the Corporation, such money is payable out of such appropriation to the Corporation from time to time upon the requisition of the chairman of the Corporation and the direction of the Lieutenant Governor in Council, in such amounts and at such times as are stated in the requisition and direction, and this section has effect notwithstanding that there may be sums due from the Corporation to the Province of Ontario. R.S.O. 1970, c. 354, s. 49; 1973, c. 57, s. 2, *revised*.

Where appropriation is exhausted, special warrant may issue

49. Where the appropriation made by the Legislature for any work of the Corporation becomes exhausted in a fiscal year and the chairman of the Corporation reports to the Lieutenant Governor in Council that it is necessary and expedient that such work be proceeded with and that an additional amount is required for that purpose, the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor for the issue of the amount estimated to be required in such fiscal year, and, when issued, such amount shall be placed by the Treasurer of Ontario to the credit of a special account against which cheques may be issued in favour of the Corporation for such sums as are required. R.S.O. 1970, c. 354, s. 50; 1973, c. 57, s. 2.

Advances to be made on terms and conditions agreed upon

50. All advances made by the Province of Ontario to the Corporation after the 1st day of January, 1951, shall be made on such terms and conditions as are agreed upon between the Corporation and the Treasurer of Ontario, and without limiting the generality of the foregoing, the Corporation, in consideration of any advance, may,

(*a*) issue and deliver to the Treasurer of Ontario notes, bonds, debentures or other securities of the Corporation for the same principal amount, maturing on the same date or dates, bearing interest at the same rate or rates and payable as to both principal and interest

in the same currency or currencies as the debentures or other securities of the Province of Ontario issued for the purpose of raising the moneys advanced by the Province of Ontario to the Corporation, and containing such other terms and conditions, if any, as to redemption in advance of maturity or otherwise as the Treasurer of Ontario approves; and

(*b*) agree to reimburse the Province of Ontario all charges and expenses incurred or to be incurred by the Province of Ontario in connection with the creation and issue of such debentures or other securities of the Province of Ontario and the payment from time to time of the interest thereon and of the principal thereof whether at maturity or on redemption before maturity and of the amount of the premium, if any, on redemption, and such other charges and expenses as the Province of Ontario incurs. R.S.O. 1970, c. 354, s. 53; 1973, c. 57, s. 2.

General borrowing powers

51.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may borrow from time to time such sums of money as it may consider requisite for any of its purposes and, for the purpose of such borrowing, may issue notes, bonds, debentures and other securities bearing interest at such rate or rates, and payable as to principal, interest, and premium if any, at such time or times and in such manner and in such place or places in Canada or elsewhere, and in the currency of such country or countries, as the Corporation may determine, and such notes, bonds, debentures and other securities may be made redeemable in advance of maturity, at such time or times, and at such price or prices, and in such manner, and either with or without premium, as the Corporation may determine at the time of the issue thereof. R.S.O. 1970, c. 354, s. 54 (1); 1973, c. 57, s. 2.

Idem

(2) Where, pursuant to subsection (1), the Corporation, with the approval of the Lieutenant Governor in Council, has passed a resolution authorizing the borrowing of money by the issue from time to time of notes, bonds, debentures or other securities maturing not later than five years from the respective dates thereof and bearing interest at a rate or rates not exceeding the maximum rate of interest specified in the resolution, the Corporation without any further approval of the Lieutenant Governor in Council may subsequently and from time to time authorize the issue of such notes, bonds, debentures or other securities, within the maximum principal amount prescribed by such resolution, bearing such respective dates, maturing not later than five years from such respective dates, and bearing interest at such repective rates not exceeding the

said maximum interest rate, as the Corporation in its discretion may from time to time determine. R.S.O. 1970, c. 354, s. 54 (2); 1973, c. 57, ss. 2, 12.

Purposes of Corporation

(3) The purposes of the Corporation, without limiting the generality thereof, include,

(*a*) repayment on account of the advances by the Province of Ontario to the Corporation;

(*b*) payment in whole or in part of any notes, bonds, debentures or other securities of the Corporation issued and delivered to the Treasurer of Ontario in respect of any advances from the Province of Ontario to the Corporation;

(*c*) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Corporation under this or any other Act;

(*d*) payment of the whole or any part of any loan or of any liability or of any notes, bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Corporation;

(*e*) payment of the whole or any part of any other liability or indebtedness of the Corporation; and

(*f*) carrying out any of the powers and purposes of the Corporation referred to in sections 23 to 28, 37 and 83, or carrying out any of the powers and purposes of the Corporation referred to in *The Niagara Development Act, 1951* or in *The St. Lawrence Development Act, 1952 (No. 2)* providing in whole or in part for expenditures of the Corporation made or to be made in connection therewith, reimbursing the Corporation for any such expenditures heretofore or hereafter made, and repaying in whole or in part any temporary borrowings of the Corporation for any of such purposes.

1951, c. 55
1952 (2nd Sess.), c. 3

Resolution conclusive

(4) Where a resolution of the Corporation authorizing the issue of securities contains a recital or declaration that the amount of the securities so authorized is necessary to realize the net sum required for the purposes of the Corporation, the recital or declaration is conclusive evidence of the facts stated therein.

Corporation may sell or pledge

(5) The Corporation may sell or otherwise dispose of any such notes, bonds, debentures and other securities at such price or prices, and on such terms and conditions, as it considers advisable, and either at the par value thereof or at less or more

than the par value thereof, and may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security.

Reissue of securities

(6) Any such securities dealt with as collateral security when redelivered to the Corporation or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Corporation again becomes entitled to such securities, may be treated by the Corporation as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Corporation considers advisable, or at its option may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences, and upon such issue or reissue any person entitled thereto has the same rights and remedies as if the same had not been previously issued.

Corporation may pledge securities

(7) The Corporation on such terms and conditions as it considers advisable may charge, pledge, hypothecate, deposit or otherwise deal with as collateral security any notes, bonds, debentures or other securities purchased by it under section 19.

Form and execution of securities

(8) The notes, bonds, debentures and other securities of the Corporation shall be in such form or forms and in such denomination or denominations and shall be executed in such manner and by such persons as the Corporation may determine.

Reproduction of seal and signatures

(9) The Corporation may provide that the seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and that any signatures upon any such security and upon the coupons, if any, attached thereto may be engraved, lithographed or printed or otherwise mechanically reproduced thereon.

Effect of mechanical reproduction of seal and signatures

(10) The seal of the Corporation when so mechanically reproduced has the same force and effect as if manually affixed, and such mechanically reproduced signatures are for all purposes valid and binding upon the Corporation notwithstanding that a person whose signature is so reproduced has ceased to hold office before the date of the security or before its issue. R.S.O. 1970, c. 354, s. 54 (3-10); 1973, c. 57, s. 2.

Exchange of bonds

52.—(1) Notwithstanding anything in this Act, where the Corporation is required to replace or exchange any bond of an issue of bonds of the Corporation outstanding on the 4th day

of March, 1974, the Corporation may deliver a bond or bonds of the same issue in accordance with the terms and conditions applicable to such issue in the name of The Hydro-Electric Power Commission of Ontario, sealed in the name of The Hydro-Electric Power Commission of Ontario, which seal may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and signed in such manner and by such persons as may be authorized by the Corporation.

Exchange of notes

(2) The provisions of subsection (1) shall apply with necessary modifications to exchanges of notes of the Corporation comprising part of an issue of notes outstanding on the 4th day of March, 1974.

Validity of exchanged bonds and notes

(3) All bonds or notes delivered in accordance with the provisions of this section are legal, valid and binding obligations of the Corporation.

Guarantee by Province of Ontario

(4) Nothing in this section affects the validity of any guarantee by the Province of Ontario of the payment of the principal of any bond or note mentioned in subsection (3) or of the interest thereon. 1973, c. 57, s. 13.

Guaranteeing bonds of Corporation

53.—(1) The Lieutenant Governor in Council is authorized, on such terms as are approved by order in council, to guarantee the payment of the principal and interest of any notes, bonds, debentures or other securities issued by the Corporation, and the form and manner of any such guarantee or guarantees shall be such as the Lieutenant Governor in Council approves, and the guarantee or guarantees shall be signed by the Treasurer of Ontario or the Deputy Treasurer of Ontario and Deputy Minister of Economics or such other officer or officers as are designated by the Lieutenant Governor in Council, and, upon being so signed, the Province of Ontario becomes liable for the payment of the principal and interest of the notes, bonds, debentures or other securities guaranteed according to the tenor thereof, and the Lieutenant Governor in Council is authorized to make arrangements for supplying the money necessary to fulfil the requirements of the guarantee or guarantees and to advance the amount necessary for that purpose out of the public funds of the Province of Ontario, and, in the hands of any holder of any such notes, bonds, debentures or other securities, any guarantee so signed is conclusive evidence that the terms of this section have been complied with. R.S.O. 1970, c. 354, s. 55 (1); 1972, c. 3, s. 5 (1); 1973, c. 57, s. 2.

Signatures may be mechanically reproduced

(2) The signature of the Treasurer of Ontario or the Deputy Treasurer of Ontario and Deputy Minister of Economics or of such other officer or officers provided for in subsection (1) may be engraved, lithographed, printed or otherwise mechanically reproduced, and the mechanically-reproduced signature of any such person shall be deemed for all purposes to be the signature of

such person and is binding upon the Province of Ontario notwithstanding that the person whose signature is so reproduced may not have held office at the date of the notes, bonds, debentures or other securities or at the date of the delivery thereof and notwithstanding any change in any of the persons holding any such office between the time when any such signature is affixed and the date of delivery of the notes, bonds, debentures or other securities. R.S.O. 1970, c. 354, s. 55 (2); 1972, c. 3, s. 5 (1).

Guaranteeing performance of contract for purchase of shares

54. The Lieutenant Governor in Council may on behalf of the Province of Ontario enter into any covenants or agreements in connection with the acquisition by the Corporation of any shares in any incorporated company and guarantee the observance and performance by the Corporation of any contract or agreement of the Corporation in relation to such acquisition. R.S.O. 1970, c. 354, s. 56; 1973, c. 57, s. 2.

Temporary loans

55.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time for any of the purposes of the Corporation borrow by way of temporary loan from any chartered bank to which the *Bank Act* (Canada) applies, from any other bank which is supervised or examined by the central bank or other governmental authority having supervision over banks in the jurisdiction in which the bank carries on business or from any person such sums as the Corporation considers requisite, either by way of bank overdraft or loan or in any other manner whatsoever. 1973, c. 57, s. 14.

1980-81, c. 40 (Can.)

Security for temporary loans

(2) For the purposes of subsection (1), the Corporation may pledge as security, notes, bonds, debentures or other securities of the Corporation pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Corporation, or otherwise give such security as the Corporation determines, and any cheques, promissory notes, or other instruments that may be necessary or desirable for the purposes of subsection (1) or this subsection may be executed in such manner as the Corporation determines.

Guarantee by Province

(3) The Lieutenant Governor in Council may guarantee the repayment of advances made by banks or any other indebtedness incurred by the Corporation. R.S.O. 1970, c. 354, s. 57 (2, 3); 1973, c. 57, s. 2.

BUSINESS OPERATIONS

Business of Corporation

56. The purposes and business of the Corporation include the generation, transmission, distribution, supply, sale and use of power and, except with respect to the exercise of powers requiring the prior authority of the Lieutenant Governor in

Council under this Act, the Corporation has power and authority to do all such things as in its opinion are necessary, usual or incidental to the furtherance of such purposes and to the carrying on of its business. R.S.O. 1970, c. 354, s. 58; 1973, c. 57, s. 2.

Corporation may purchase and sell supplies

57.—(1) The Corporation may, out of any funds in its hands, purchase such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the transmission, distribution, supply or use of power and may sell or dispose of the same.

Manufacturing and dealing in supplies

(2) The Lieutenant Governor in Council, upon the request of the Corporation specifying,

(*a*) the nature and volume of the business to be carried on; and

(*b*) the extent of the liability that may be incurred in connection therewith,

may authorize the Corporation to manufacture in Ontario such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the development, transmission, distribution, supply or use of power, and to acquire patents of invention or interests therein, and to sell or dispose of such machinery, appliances, furnishings or patent rights, and the profits and losses arising from such operation shall be adjusted and apportioned among the municipalities having contracts with the Corporation or be otherwise applied as the Corporation sees fit.

Doing work for contracting municipalities, etc.

(3) The Corporation may,

(*a*) undertake and carry out the preparation of plans, specifications and estimates for, and the construction, erection, installation and putting down of, any plant, machinery, and other things;

(*b*) purchase supplies, wires, poles, and other things;

(*c*) render engineering or other service,

for the generation, purchase, transmission, distribution, supply or use of power for light, heat or power purposes, or for the manufacture, procuring, producing, supply or use of any other public utility, by a municipal corporation or commission, or by any other corporation or any person, and the Corporation may charge and collect from such corporation, commission or person the cost of any work done or service rendered by the Corporation under this subsection.

Work for extending use of power

(4) Subject to the approval of the Lieutenant Governor in Council, the Corporation, out of any funds in its hands, may

undertake and carry on investigation, experiments, research, development and other work in or for the generation, transformation, transmission, distribution, supply, sale or use of power and may use and apply the results thereof, and may undertake and carry on any electro-chemical, chemical, or physical process and, without limiting the generality thereof, electrolysis, reduction, synthesis and conversion of water and other resources, their constituents and compounds and the development and manufacture of products therefrom.

Dealing in patents and products

(5) The Corporation may acquire any patent or licence or interest in any patent or licence and may use or supply or dispose of by sale, lease, hire, licence or otherwise any such patent, licence or interest and any product, article or commodity produced, used, acquired or found in the operations of the Corporation and any right to or interest in any process or the right to use the same.

Power to act with others

(6) The Corporation may do any or all of the things authorized in this section as principal, agent, contractor, trustee or otherwise and either alone or in conjunction with others, and a municipal corporation or commission may act as agent for the Corporation.

Profits to reduce cost of power

(7) Any net profit obtained by the Corporation from anything authorized in this section shall be applied as the Corporation considers equitable towards reduction in the cost of power to municipal corporations having contracts with the Corporation for the supply of electrical power. R.S.O. 1970, c. 354, s. 59; 1973, c. 57, s. 2.

By-products, sale of, to reduce cost of power

58. Where in the course of the operations of the Corporation any commodity is produced as a by-product or is found upon property vested in the Corporation, the Corporation may sell or otherwise dispose of such commodity at such prices and upon such terms as it considers proper, and any revenue so obtained shall be applied in reduction of the cost of power to municipal corporations having contracts with the Corporation for the supply of power from the works or property in connection with which the commodity is produced. R.S.O. 1970, c. 354, s. 60; 1973, c. 57, s. 2.

Unused works may be utilized to produce revenue

59. When any works constructed or acquired by the Corporation for the purpose of supplying power are not in use for that purpose, the Corporation with the approval of the Lieutenant Governor in Council may utilize them for such revenue-producing purposes as it considers proper, and any revenue so derived shall be applied in the reduction of the cost of power to municipal corporations having contracts with the Corporation for the supply of power from such works. R.S.O. 1970, c. 354, s. 61; 1973, c. 57, s. 2.

PART II

SUPPLY OF POWER

Application to Corporation for supply of power to municipal corporation

60.—(1) Any municipal corporation may apply to the Corporation for the transmission and supply to it of power for its use and the use of the inhabitants of the municipality for lighting, heating and power purposes or for any of the purposes mentioned in section 68.

Information and estimates to be supplied by Corporation

(2) The Corporation shall thereupon furnish to the corporation an estimate of the cost at which the power can be supplied to the corporation, including an estimate of the cost of the works by means of which the amount of power required by the corporation is to be supplied, and the Corporation may furnish to the corporation plans and specifications of the works necessary for the distribution of such power by the corporation and an estimate of the cost thereof, and such other information as the Corporation considers advisable.

Vote of electors
R.S.O. 1980, c. 302

(3) The corporation may thereupon submit to a vote of the electors of the municipality, in accordance with the *Municipal Act*, a question as to securing a supply of power from the Corporation, and if a majority of the electors vote in the affirmative, the council of the corporation may, by by-law, authorize the entering into, and the corporation shall thereupon enter into, a contract with the Corporation in such form as is approved by the Lieutenant Governor in Council, and it is not necessary to submit a by-law approving thereof for the assent of the electors and the contract is valid and binding.

Debentures

(4) Notwithstanding anything in the *Municipal Act* or in any general or special Act, debentures issued or purporting to be issued by a municipal corporation that has entered into a contract with the Corporation for a supply of power from the Corporation for the purpose of carrying out the contract, or for constructing or equipping works for the development, transmission and distribution of power so supplied, shall not be included in ascertaining the limits of the borrowing powers of the corporation as prescribed by the *Municipal Act*, or in any general or special Act. R.S.O. 1970, c. 354, s. 62; 1973, c. 57, s. 2.

R.S.O. 1980, c. 302, s. 150 not to apply

61. Section 150 of the *Municipal Act* does not apply to any contract between the Corporation and a municipal corporation for the supply of power. R.S.O. 1970, c. 354, s. 63; 1973, c. 57, s. 2.

Interest on arrears by municipal corporation

62. Notwithstanding any agreement heretofore or hereafter entered into by the Corporation for the supply of power to a municipal corporation, interest on any payment

in arrears for the cost of power shall be charged to and paid by the municipal corporation at such rate, not in excess of 9 per cent per annum, as may be determined by the Corporation from time to time. 1973, c. 57, s. 15.

Right to enter on lands to put up wires, etc.

63. A municipal corporation that has entered into a contract for the supply of power by the Corporation may, by its officers, agents, servants and workmen, enter into and upon the lands of any person, including lanes, courts, yards and buildings, for the purpose of placing overhead or underground wires with their appurtenances without the consent of the owner or occupant of such property, but subject to the payment of compensation for any damage caused thereby, to be determined in the manner provided by the *Municipal Act* where a municipal corporation enters upon and takes land for its purposes. R.S.O. 1970, c. 354, s. 64; 1973, c. 57, s. 2, *revised*.

R.S.O. 1980, c. 302

Granting of franchises by municipalities under contract with Corporation prohibited

64.—(1) Where a municipal corporation has heretofore entered into or hereafter enters into a contract with the Corporation to take power, either at the time of entering into the contract, or at any time thereafter, exclusively from the Corporation, the municipal corporation shall not grant to any corporation or person any right or franchise to erect or lay down poles, wires, conduits or any other structures or works for the distribution of power in the municipality, either for the use of the municipal corporation or the inhabitants generally, or of any particular person, and every such right or franchise and every agreement therefor granted or entered into with or without the assent of the electors is void.

Proceedings for ascertaining rights where franchise claimed

(2) Where it is alleged that any person has erected or laid down upon, over or under any street or other highway in a municipality, any poles, wires, conduits or other structures or works for the transmission or distribution of power without the consent of the municipal corporation lawfully given under a by-law of its council or is continuing to maintain or use any such structures or works upon, over or under any such street or highway without lawful authority, the Lieutenant Governor in Council, upon the complaint of the municipal corporation or of any ratepayer, or of the Corporation, may direct an inquiry by the Ontario Municipal Board or by a commission composed of two judges of the Supreme Court, and the Board or commission may inquire into the matter, and if, as a result of the inquiry, it is found that such structures or works are upon, over or under any street or highway without lawful authority, the Board or commission may order the removal of all such poles, wires, conduits or other structures upon such notice and upon such terms and conditions as the

Board or commission considers just or reasonable, and an order made by a commission under this subsection may be filed with the Registrar of the Supreme Court and has the same force and effect and is enforceable in the like manner as a judgment of the Supreme Court.

When work to be deemed unlawfully upon the highway

(3) Any such structure or work shall be deemed to be upon, over or under any street or highway without lawful authority where no such right or franchise is found to have existed or where the term for which the right or franchise was originally granted has expired, or where the right or franchise was not granted by by-law in compliance with the statutes relating thereto, and no such right or franchise shall be deemed to have been acquired by lapse of time or by any express or implied acquiescence on the part of the municipality or of any other municipality, company or individual formerly owning or controlling such street or highway or the lands included therein. R.S.O. 1970, c. 354, s. 65; 1973, c. 57, s. 2.

Enforcement of agreements

65. Notwithstanding any provision in the contract or agreement entered into between a municipal corporation and the Corporation providing for the determination of questions arising under the contract or agreement, or for the settlement of any dispute between the municipal corporation and the Corporation by the Lieutenant Governor in Council or in any other manner, the Corporation may bring an action for any breach of the contract or agreement on the part of the municipal corporation, and the court may in any such action grant an injunction restraining the municipal corporation from doing any act or continuing any such breach, may order the municipal corporation to supply any omission or to do any act required to be done by it under the terms of the contract or agreement, and may award to the Corporation such sum as damages for any such breach as the court considers a fitting penalty to impose upon the municipal corporation therefor. R.S.O. 1970, c. 354, s. 66; 1973, c. 57, s. 2.

Trustees of police village may contract with Corporation

66.—(1) Subject to subsection (11), the trustees of a police village shall, for the purposes of this Part, be deemed to be a municipal corporation, and may exercise all the powers conferred upon municipal corporations by this Part.

Submission of by-law to electors

(2) The council of the township or the councils of the townships in which the police village is situate, upon the request of the police trustees, shall issue debentures as provided by this Act.

Township to levy special rate

(3) The council of the township in which the police village or any part thereof is situate shall annually levy by special rate upon the rateable property in the police village, or in that part of the village situate in the township, the amounts

required to meet the payments to be made to the Corporation, and to pay off the debentures issued under subsection (2).

Extension, etc., of works in police village

(4) Where the trustees of a police village have entered into a contract with the Corporation for the supply of power and have heretofore constructed, purchased or acquired, or hereafter construct, purchase or acquire, works for distributing power and the trustees of the police village desire to extend or improve such works, they may apply to the council of the township for the passing of a by-law for the issue of debentures for such extension or improvement, and the council shall pass the necessary by-law for borrowing such further sums as may be necessary for such extension or improvement, and for levying by an annual special rate upon the rateable property in the police village the sums required for the payment of the debentures issued for the extensions or improvements.

Assent of electors not required

(5) The by-law shall be approved by the Corporation before the final passing thereof, but does not require the assent of the electors.

Approval of Corporation

(6) Such approval may be given if it is shown to the satisfaction of the Corporation that the extension or improvement is necessary or desirable, and that sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon.

Trustees to be a Corporation

(7) The trustees of a police village are a commission for the control and management of works established for the distribution of power in the police village, and have and may exercise and perform the like powers and duties as nearly as may be as a commission formed under the *Public Utilities Act* in an incorporated village. R.S.O. 1980, c. 423

Secretary-treasurer

(8) The trustees of a police village shall appoint a competent person to act as secretary-treasurer for the purpose of keeping the accounts of the trustees for the distribution and supply of power and acting as custodian of funds collected by the trustees or received by them from the treasurer of the township for the establishment of works in connection with the distribution of power.

Security

(9) The secretary-treasurer shall give security for the due accounting of all sums of money coming to his hands and for the payment over to the township treasurer of the sums required from time to time to meet payments coming due for interest and principal and to provide a sinking fund for the payment of any debentures issued for the works undertaken by the trustees under any contract with the Corporation.

Audit of accounts

(10) The accounts of the secretary-treasurer shall be audited by the auditor of the township in which the police village is

situate, or if the police village includes parts of two or more townships, then by the auditor of that township having the highest assessment in the police village.

Contracts with police villages

(11) Notwithstanding anything in this section, no contract between the trustees of a police village and the Corporation for the supply of power shall be entered into after the 1st day of July, 1968. R.S.O. 1970, c. 354, s. 67; 1973, c. 57, s. 2.

By-laws

67.—(1) Notwithstanding the *Public Utilities Act* or any other Act, the council of a township may from time to time pass by-laws,

(*a*) for establishing, with the approval of the Corporation, an area in the township as to which any of the by-laws passed under clauses (*b*), (*c*) and (*d*) have effect, or establishing the whole township as such an area;

(*b*) for entering into a contract with the Corporation, with the assent of the municipal electors of the area qualified to vote on money by-laws, for the supply of power for the use of the municipality and its inhabitants in any area established under clause (*a*);

(*c*) for acquiring real and personal property and acquiring, constructing, reconstructing, extending and operating works for the development, transmission and distribution of power in the municipality;

R.S.O. 1980, cc. 302, 250, 423

(*d*) for exercising, for such purposes, any of the powers that may be exercised by a town under the *Municipal Act*, the *Local Improvement Act*, the *Public Utilities Act*, or this Act.

Alteration of areas

(2) The council, with the approval of the Corporation, may from time to time, by by-law, incorporate an area established under clause (1) (*a*) with any other established area.

Debenture issue

(3) Where the council has passed a by-law under clause (1) (*a*) or under subsection (2), it may issue debentures for the purposes of clause (1) (*b*), (*c*) or (*d*), and levy a special rate for the amounts required to be raised on account of principal or sinking fund and of interest for the payment of such debentures in the area so established, and notwithstanding the *Municipal Act* or any other Act, it it not necessary to obtain the assent of the electors to the by-law for the issue of such debentures. R.S.O. 1970, c. 354, s. 68 (1-3); 1973, c. 57, s. 2.

Commission for construction and management of works

(4) The council of a township that has entered into a contract with the Corporation for the supply of power for the use of the municipality and its inhabitants in any area established under clause (1) (*a*) may by by-law provide for entrusting the

construction of the works and the control and management thereof to a commission to be called "The Hydro-Electric Commission of the Township of (*naming the area*) of (*naming the township*)" or if the area comprises the whole township, "The Hydro-Electric Commission of the Township of (*naming the township*)". R.S.O. 1970, c. 354, s. 68 (4); 1973, c. 57, s. 16.

Assent of electors not necessary

(5) It is not necessary to obtain the assent of the electors to the establishment of a commission under subsection (4), but the commissioners elected shall be residents of the area for which they are elected commissioners.

Disestablishment of commission

(6) Upon the incorporation of any area in another area the commission, if any, for the area so incorporated shall be deemed to be disestablished and the commission, if any, for the other area shall be a commission for the combined area.

Revenue of commission

(7) Subject to subsection (8), where a commission has been established under this section and the members thereof have been elected, all the powers, rights, authorities and privileges that by the *Public Utilities Act* are conferred upon a municipal corporation in respect of power shall, while the by-law for establishing it remains in force, be exercised by the commission in the area for which it was established or in the area to which such area may have been enlarged and not by the council of the municipality.

R.S.O. 1980, c. 423

Council to provide money for works

(8) Nothing in this section divests the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any money so provided, and nothing in this Act divests the council of the rights and powers conferred upon it by the *Local Improvement Act*.

R.S.O. 1980, c. 250

Provisions of R.S.O. 1980, c. 423 to apply

(9) Sections 41, 42, 43, 46 and 47 of the *Public Utilities Act* apply to every commission established under this section.

Repeal of by-law establishing commission

(10) A by-law establishing a commission under this section may be repealed by the council of the municipality at any time with the consent of the Corporation and it is not necessary to obtain the assent of the electors to such repeal.

Reverting of works

(11) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works are vested in the council, and the commission ceases to exist.

Areas fixed as of May 1, 1951

(12) Notwithstanding anything in this section, no areas shall be established nor the boundaries of any established area enlarged or altered after the 1st day of May, 1951. R.S.O. 1970, c. 354, s. 68 (5-12); 1973, c. 57, s. 2.

POWERS OF MUNICIPALITIES

Supply of power, etc.

68.—(1) In addition to the powers conferred by this Act, a municipal corporation that has entered into a contract with the Corporation for the supply of power has and may exercise in respect of such power all the powers that are by the *Public Utilities Act* or the *Municipal Act* conferred upon municipal corporations in respect of light and heat, and all the powers that are conferred upon municipal corporations by the *Municipal Act* for contracting debts for any purpose within the jurisdiction of the council thereof, and also the power to expropriate land, making compensation therefor under the *Expropriations Act*.

R.S.O. 1980, cc. 423, 302, 148

By-law for borrowing money

(2) The council of a municipal corporation may, if it sees fit, submit to the electors a by-law providing for borrowing, by the issue of debentures, the money required for any of the purposes mentioned or referred to in sections 60 and 66 and in this section at the same time as the council submits to the electors a question as to supply of power under section 60, and the by-law for borrowing money may be finally passed either before or after the municipal corporation has entered into a contract with the Corporation for the supply of power, but the debentures authorized by the by-law shall not be issued until the municipal corporation has entered into a contract with the Corporation for the supply of such power.

Supplying power outside of municipality

(3) A municipal corporation that has entered into a contract with the Corporation under this Act may, from time to time, with the approval of the Corporation, contract with any other municipal corporation or with any person for the supply or distribution of power in any other municipality, and such other municipal corporation has authority to enter into the contract; but a municipal corporation shall not exercise the power conferred by this section in another municipality without the consent of the council thereof. R.S.O. 1970, c. 354, s. 69; 1973, c. 57, s. 2.

CONTRACTS OF CORPORATION

Supply of power

69.—(1) In addition to the powers conferred upon it by this Act or any other Act to contract with municipal corporations for the supply by it of power and to contract with persons pursuant to section 85, the Corporation, subject to the approval of the Lieutenant Governor in Council, may contract with any other person for the supply of power to such person upon such terms and conditions as the Corporation considers proper.

Application of revenue

(2) The revenue, or any part thereof, derived by the Corporation from supplying power under subsection (1) for use outside Ontario and which in the opinion of the Corporation is so

derived because of anything done pursuant to section 25 may be placed to the credit of the frequency standardization reserve account.

Application of net surplus

(3) Any net surplus made by the Corporation in supplying power under subsection (1) shall be applied as the Corporation may determine from time to time for adjusting and proportioning and making equitable and stabilizing the rates for power payable to the Corporation.

Determination of net profit

(4) Net surplus referred to in subsection (3) shall be determined by deducting from the revenue received from supplying power under subsection (1) all moneys placed to the credit of the frequency standardization reserve account pursuant to subsection (2) and an amount determined by the Corporation for costs and charges as enumerated in section 75. R.S.O. 1970, c. 354, s. 70; 1973, c. 57, s. 2.

Approval of Lieutenant Governor in Council not required to certain contracts

70. Notwithstanding anything in section 69, it is not necessary to obtain the approval of the Lieutenant Governor in Council to any contract for a supply by the Corporation of power to any person from works that the Corporation has acquired or constructed and is operating for the distribution of power. R.S.O. 1970, c. 354, s. 71; 1973, c. 57, s. 2.

Amendment of agreements

71.—(1) If any agreement heretofore or hereafter entered into by the Corporation for the supplying of power by the Corporation to a municipal corporation or for any other work or service to be done or supplied by the Corporation to a municipal corporation contains any term or condition conflicting with or contrary to this Act, the agreement shall be deemed to be amended in such manner and to such extent as to give effect to this Act.

Effect of approval

(2) Subject to subsection (1), where the Corporation has heretofore entered, or hereafter enters into an agreement for the supplying of power by or to the Corporation or for any other work or service to be done by or supplied to the Corporation and such agreement has been or is hereafter approved by the Lieutenant Governor in Council, it is thereupon valid and binding upon the parties thereto. R.S.O. 1970, c. 354, s. 72; 1973, c. 57, s. 2.

State of emergency

72.—(1) Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into by the Corporation or by any municipal corporation for which the Corporation supplies power under section 83, where at any time a state of emergency exists by reason of damage to or destruction, failure or breakdown of any of its works, wastage of power, power demand in excess of

its power resources or other matters restricting its ability to deliver power, the Corporation may, during the state of emergency,

(*a*) allocate and distribute its available power among the customers under such contracts and interrupt or decrease delivery of power under any contract during the continuance of the emergency; and

(*b*) with the approval of the Lieutenant Governor in Council, regulate, restrict, prohibit and control the generation, transformation, transmission, distribution, supply and use of power supplied by it,

in order to effect what is in its opinion the most economical, efficient and equitable use and distribution of such power.

Modification of restrictions

(2) The Corporation may at any time modify, restrict, suspend or reimpose any order, regulation, restriction, prohibition or control, heretofore or hereafter given, made or exercised under subsection (1).

Cessation of power delivery

(3) The Corporation may interrupt or decrease delivery of power in such manner and to such extent as it sees fit to any of its customers who fail to comply with any direction, order, regulation, restriction, prohibition or control given, made or exercised by it under subsection (1) by such means as it considers proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

Entry by municipal corporation

(4) Any municipal corporation or municipal commission receiving power from the Corporation for distribution may interrupt or decrease delivery of power in such manner and to such extent as it sees fit to any of its customers who fail to comply with any direction, order, regulation, restriction, prohibition or control given, made or exercised by the Corporation under subsection (1), by such means as it considers proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

No breach of contract

(5) Nothing done under this section or under any direction, order, regulation, restriction, prohibition or control made or exercised by the Corporation under this section or done to enforce or give effect thereto by the Corporation, its servants or agents, or by any municipal corporation or municipal commission or its servants or agents, shall be deemed a breach of contract by the Corporation or any municipal corporation or municipal commission or entitle any person to rescind any contract or release any guarantor from the performance of his obligation, or render the Corporation, its servants or agents, or

any municipal corporation or municipal commission, its or their servants or agents liable in any action-at-law or other legal proceedings for damages or otherwise.

Offence

(6) Every person who refuses or neglects to comply with any direction, order, regulation, restriction, prohibition or control made or exercised by the Corporation under this section is guilty of an offence and, in addition to any other liability, on conviction is liable to a fine of not less than $100 and not more than $500 and a further fine of not less than $100 and not more than $500 for each day upon which such refusal or neglect is repeated or continued. R.S.O. 1970, c. 354, s. 73; 1973, c. 57, s. 2.

Enforcing payment of arrears of rates and charges

73.—(1) Where the Corporation supplies or distributes power directly to the consumer either on its own behalf or by arrangement or under contract with a municipal corporation, the amount payable by the owner of any building or lot, or part of lot, for the power supplied to him for use therein or thereon, and all rents, rates, costs and charges in connection with the service or supply of such power or the installation of any works for such service or supply are a lien and charge upon the building or lot or part of lot in the same manner and to the same extent as municipal taxes on land, and, in default of payment, the clerk of the municipality, upon being notified in writing by the Corporation of the sum due, shall forthwith enter the same upon the collector's roll and it shall be collected in the same manner as municipal taxes on land and upon recovery thereof shall be paid over to the Corporation, but when a mortgage or lease of the building or lot or part of lot in question has been duly registered before an entry upon the collector's roll as above described, the lien and charge hereby created rank after advances actually made under such mortgage and after rent accrued due under such lease before such entry.

When power deemed to be supplied

(2) For the purposes of this section, power shall be deemed to be supplied to the consumer not only when it is actually used by the owner but when it is rendered available or held in reserve for him under the terms of his contract with the Corporation or the municipal corporation. R.S.O. 1970, c. 354, s. 74; 1973, c. 57, s. 2.

Repayment of expenditures

74. The expenditure by the Corporation upon any works undertaken under this Act for the benefit of a municipal corporation that has entered into a contract with the Corporation is repayable to the Corporation by the municipal corporation. R.S.O. 1970, c. 354, s. 75; 1973, c. 57, s. 2.

Cost of power to municipality

75. Notwithstanding anything in any general or special Act passed before the 3rd day of April, 1928, or in any contract entered into before the 3rd day of April, 1928, and, except where under the terms of any such contract power is to be supplied to a municipal corporation at a fixed price, the price payable for power by any municipal corporation is the cost to the Corporation, as determined by it, of supplying and delivering power to the municipal corporation, including the municipal corporation's proportion, as adjusted by the Corporation, of,

(*a*) the cost of operation, maintenance, depreciation and insurance of the works and the cost of administration of the Corporation;

(*b*) interest and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;

(*c*) an annual sum sufficient to form in forty years, with interest at 4 per cent per year, a sinking fund for the repayment of the advances made by the Province of Ontario under this Act for the cost of the works, for the repayment of any other indebtedness incurred or assumed by the Corporation in respect of the cost of the works, and for the restoration of any reserve or other funds of the Corporation utilized for the payment of the cost of the works; and

(*d*) an amount to be determined by the Corporation for the purposes of sections 13 and 15 and clause 14 (*c*). R.S.O. 1970, c. 354, s. 76; 1973, c. 57, s. 2.

Collection of moneys from municipalities on sinking fund account

76. Notwithstanding anything in this Act, a municipal corporation that has entered into or hereafter enters into a contract with the Corporation for a supply of power may be relieved by the Corporation from payment of any sum on account of the sinking fund account for the first five years during which payments are made to the Corporation by the municipal corporation under such contract, and the amounts required from such municipal corporation on sinking fund account are payable during the then next ensuing forty years. R.S.O. 1970, c. 354, s. 77; 1973, c. 57, s. 2.

Extending time for payments by municipalities

77. The Corporation may, during the first three years after a municipal corporation first begins to take power from the Corporation, extend the time for payment of any sum payable by it, and such municipal corporation shall pay to the Corporation interest on the amount that may be in arrear or for

the payment for which time is extended until the payment thereof, at such rate not exceeding 7 per cent per year, as the Corporation may determine. R.S.O. 1970, c. 354, s. 78; 1973, c. 57, s. 2.

Surplus funds, application

78. Any surplus held by the Corporation to the credit of any municipal corporation may be retained by the Corporation as security against future obligations to the Corporation of the same municipal corporation for so long during the continuance of the contract of the municipal corporation as the Corporation thinks fit, but the Corporation shall allow to the municipal corporation interest at the rate of 4 per cent per year upon the amount of such surplus retained by the Corporation. R.S.O. 1970, c. 354, s. 79; 1973, c. 57, s. 2.

What to be deemed a system

79. Where by contract with the Corporation one or more municipal corporations have assumed the cost of the purchase of, or works for the development of, power for the supply of such municipality or municipalities under this Act, such municipality or municipalities shall, for the purpose of this Act, be defined as a "system", and the Corporation, on such conditions as are considered equitable or advisable, may include in any such system one or more other such municipalities, whether already part of any system or not, and may unite any two or more systems into one system, and may join in a system two or more such municipalities whether already part of any system or not, and for the purposes of this section an area set apart under section 67, or the rural power district, may be considered as a municipality. R.S.O. 1970, c. 354, s. 80; 1973, c. 57, s. 2.

Supplying power from one system to another

80.—(1) Wherever physical connections may be made between any of the systems operating under this Act, the Corporation may make the necessary connections so as to divert power from any one system to any other system, and the means of such connection, and the price to be paid by the system receiving the power to the system supplying the power, shall in all cases be determined by the Corporation, and the cost of the power so taken by any one system from any other shall be dealt with by the Corporation under this Act as the cost or part of the cost of the power to be paid by the municipalities forming part of such system, under their contracts with the Corporation.

Adjustment

(2) The price payable for power by one system to another shall be collected by the Corporation from the system owing it for the system entitled to receive it, and all sums so paid to any system shall be applied to the cost of construction, maintenance and operation of such system in such manner as the Corporation may direct. R.S.O. 1970, c. 354, s. 81; 1973, c. 57, s. 2.

Apportionment

81.—(1) The Corporation shall annually adjust and apportion the amounts payable by municipal corporations under sections 75 to 80.

Annual adjustment

(2) The Corporation shall also annually adjust and apportion among the municipal corporations all such expenditures made by the Corporation in exercise of the powers conferred upon the Corporation by this Act as have been incurred for or on behalf of the municipal corporations.

Adjustment to be final

(3) The adjustment and apportionment made by the Corporation is final and binding upon the municipal corporations. R.S.O. 1970, c. 354, s. 82; 1973, c. 57, s. 2.

PART III

SUPPLY OF POWER FOR STREET LIGHTING IN TOWNSHIPS

Contracts for street lighting in townships

82.—(1) Notwithstanding anything in this or any other Act, the council of a township may, without petition and without the assent of the electors, pass a by-law for entering into a contract with the Corporation for the lighting of streets in the township.

Contents of by-law

(2) The by-law may,

(*a*) define one or more street lighting areas in the township;

(*b*) enlarge, reduce or alter the boundaries of any street lighting area in the township;

(*c*) amalgamate any street lighting areas in the township;

(*d*) provide that the cost of the street lighting works in any street lighting area in the township, including debenture charges, the cost of maintenance and management of the works and the cost of power supplied for street lighting under this Act, shall be assessed and levied on the rateable property in the area, or provide that such part of the cost as to the council seems proper shall be paid by the township and that the remainder of the cost shall be assessed and levied on the rateable property in the area, or provide that the entire cost shall be paid by the township; and

(*e*) provide that the contract with the Corporation shall apply to any street lighting area.

Maps

(3) Any street lighting area may be defined by the use of a map or sketch to be attached to the by-law and the infor-

mation shown on the map or sketch shall form part of the by-law to the same extent as if included therein.

Power of township to construct works

(4) The corporation of the township may acquire or construct the works necessary for lighting the streets, and for such purpose the corporation of the township has and may exercise all the powers conferred upon townships under the *Municipal Act* or the *Local Improvement Act*. R.S.O. 1980, cc. 302, 250

Power of Corporation to construct works

(5) If the contract so provides, the Corporation may, on behalf of the township, acquire, construct, extend, reconstruct, maintain, operate and administer any such street lighting works.

Power of township to extend application of street lighting agreement

(6) Where under this section a township has entered into a contract with the Corporation for the lighting of streets in one or more areas, the township may from time to time, without petition and without the assent of the electors, pass a similar by-law to provide that the contract shall also apply to any other street lighting area or areas in the township.

Where Part II to apply

(7) The provisions of Part II with respect to the annual payments to be made by a municipal corporation that has entered into a contract with the Corporation apply to any contract entered into under this section and extend to all street lighting works constructed under the contract, but do not apply in respect of the capital cost of works acquired or constructed by the township. R.S.O. 1970, c. 354, s. 83; 1973, c. 57, s. 2.

PART IV

DISTRIBUTION OF POWER IN RURAL POWER DISTRICT

Contracts for supply of power

83.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may contract with the corporation of a township, or townships, or with the corporations of two or more townships, for the supply and distribution by the Corporation of power in the township or townships.

Rural power district

(2) There shall be one rural power district comprising all of the territory of Ontario excepting the areas of all municipal corporations and police villages that have contracted with the Corporation for the supply of power at cost or that hereafter so contract.

Corporation powers

(3) The Corporation may, on behalf of the corporation as well as on its own behalf,

(*a*) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all lands and works necessary for the transmission to and the transforming and distributing in the rural power district of power;

(*b*) supply power to any customer or at any premises in the rural power district;

(*c*) perform, enjoy and enforce all contracts in which the corporation agrees to supply or sell power to any customer or at any premises in the rural power district.

Signing of contracts

(4) Contracts in which the municipal corporation agrees to supply or sell power are sufficiently executed on behalf of the corporation if signed by its clerk or by such other officer as is designated by the council of the corporation.

Use of moneys for standardization of frequency

(5) The Corporation may in its discretion use any of the revenue that may be derived or may have been derived from the distribution of power by the Corporation on behalf of any township forming part of the rural power district for altering, reconstructing, rebuilding, reassembling, constructing, extending, replacing or whatever else may be necessary in respect of works held by it under subsection (3), for the purpose of standardizing and making uniform to such extent and in such manner as it considers necessary the periodicity in alternations of current at which it supplies power to customers of the corporation or at premises pursuant to subsection (3). R.S.O. 1970, c. 354, s. 84; 1973, c. 57, s. 2.

Powers of Corporation

84. For the purposes of this Part, the Corporation may exercise any of the powers that the Corporation may exercise or be authorized to exercise under Part I and may upon such terms as it considers proper, sell, lease or otherwise dispose of any lands and works acquired or held for the purposes of this Part. R.S.O. 1970, c. 354, s. 85; 1973, c. 57, s. 2.

Right of park board to contract power

85.—(1) Subject to the approval of the Lieutenant Governor in Council, where any Act of the Legislature sets apart lands as a park and provides for the appointment of a board of commissioners therefor and makes such board of commissioners a body corporate, such board may purchase from the Corporation power for use in the park, and may sell power to customers therein and execute contracts accordingly and the Corporation may contract with the board to supply and distribute such power.

When park to be rural power district

(2) Upon the execution of a contract between the Corporation and any such board, the Corporation may make any

such park or part thereof a part of the rural power district and the provisions of this or any other Act applying to the rural power district are applicable. R.S.O. 1970, c. 354, s. 86; 1973, c. 57, s. 2.

Corporation may take over existing distribution system

86. When at the time of entering into the contract the corporation of any such township has been operating a system for distributing power to inhabitants of the township, or has a contract with the Corporation for a supply of power under any other Part of this Act, the Corporation, with the approval of the council of the township, may take over, acquire, reconstruct, extend and operate such distribution system, and may perform, enjoy and enforce the contracts with the customers thereof, and may incorporate such system in the rural power district. R.S.O. 1970, c. 354, s. 87; 1973, c. 57, s. 2.

Police village not to be deemed separate corporation

87. Notwithstanding this Act, where the trustees of a police village have not a subsisting contract with the Corporation, it shall not be considered a separate corporation from the township or townships out of which it was formed for the purposes of this Part. R.S.O. 1970, c. 354, s. 88; 1973, c. 57, s. 2.

Assent of electors not required to contract

88. The council of the township or the council of each of the townships entering into a contract under section 83 or 86 may pass a by-law for entering into the contract, and the corporation of the township may execute the contract, and it is not necessary to submit the by-law to the vote of the electors or to comply with any of the other formalities required in the case of a by-law under Part II. R.S.O. 1970, c. 354, s. 89.

Application of Part II as to annual payments

89. All the provisions of Part II as to the annual payments to be made by the municipal corporations that have entered into contracts with the Corporation apply to a contract entered into under this Part, and extend to the works constructed under the contract for transforming, distributing and supplying power in the rural power district. R.S.O. 1970, c. 354, s. 90; 1973, c. 57, s. 2.

Rates to be fixed by Corporation

90. The rates to be charged to customers receiving power from the Corporation in the rural power district or any section thereof shall be fixed by the Corporation under this Act. R.S.O. 1970, c. 354, s. 91; 1973, c. 57, s. 2.

Apportionment of cost on annual adjustment

91. The Corporation shall fix, adjust and apportion annually the cost of all the works mentioned in sections 83 and 86 to be borne by each of the municipal corporations entering into any such contract. R.S.O. 1970, c. 354, s. 92; 1973, c. 57, s. 2.

PART V

CONTROL AND REGULATION BY CORPORATION

Complaints as to rates charged for power

92.—(1) Upon complaint in writing that a municipal corporation, company or person receiving power from the Corporation is charging a rate that is excessive or unfair, or that any municipal corporation is making use of the powers conferred upon it by this Act for the purpose of granting a bonus by supplying power below cost to manufacturers or others, the chairman of the Corporation may appoint a time and place at which the Board will hear and determine the matter of the complaint, and such notice of the appointment as the chairman may direct shall be given by the secretary of the Corporation to such persons as the chairman may direct. R.S.O. 1970, c. 354, s. 93 (1); 1973, c. 57, s. 17 (1).

Hearing of complaints and regulation of rates

(2) At the time and place appointed the Board shall hear and determine the matter of the complaint, and may dismiss or allow the complaint, and may regulate and determine the rates to be charged, and may direct the amendment of any by-law or agreement accordingly, or may make such order as seems meet. R.S.O. 1970, c. 354, s. 93 (2); 1973, c. 57, s. 17 (2).

Regulations

93.—(1) The Corporation, with the approval of the Lieutenant Governor in Council, may make regulations,

(*a*) prescribing the design, construction, installation, protection, use, maintenance, repair, extension, alteration, connection and disconnection of all works and matters used or to be used in the generation, transformation, transmission, distribution, delivery or use of power in Ontario;

(*b*) prohibiting the use in Ontario of any such works or matters until they have been inspected and approved;

(*c*) prohibiting the advertising, display, offering for sale, or other disposal, and the sale or other disposal, publicly or privately, in Ontario, of any such works or matters unless and until they have been inspected and approved, and prescribing the precautions to be taken in the sale or other disposal of such works or matters and the warnings and instructions to be given to purchasers and others in advertisements and by circular or otherwise in order to prevent their use in such manner or under such conditions as may be likely to result in undue hazard to persons or property;

(*d*) providing for the inspection, test and approval of all such works and matters before being used for any such purposes.

Issuing of plans and specifications

(2) The Corporation may prepare and issue plans and specifications governing the design, construction and test of any of the works or matters mentioned in subsection (1), and may amend or alter such plans and specifications.

Appointment of persons or associations to inspect and test

(3) The Corporation may appoint persons or associations having, in the opinion of the Corporation, special knowledge and facilities to inspect, test and report upon any of the works or matters mentioned in subsection (1).

Approval by adoption of report

(4) The Corporation may approve of any of the works or matters mentioned in subsection (1) by adopting the report made pursuant to subsection (3) or otherwise as the Corporation considers advisable.

Orders relating to installations, alterations, etc.

(5) The Corporation may issue such orders relating to work to be done in the installation, removal, alteration, repair, protection, connection or disconnection of any of the works or matters mentioned in subsection (1) as the Corporation considers necessary for the safety of the public, or of workmen, or for the protection of property.

Appointment of inspectorial staff

(6) The Corporation may appoint such inspectors and other officers as it considers necessary for the purposes of this section.

Fees for permits, inspection, test and approval

(7) The Corporation may prescribe the fees to be paid for permits and for inspection, test and approval of all such works and matters mentioned in subsection (1) and of plans and specifications relating thereto, and may prescribe also the time and manner of payment of such fees.

Collection and disposition of fees and fines

(8) The Corporation shall collect the fees prescribed by it under the authority of subsection (7), and shall provide for the remuneration, travelling and other expenses of the inspectors and other qualified persons, together with all other expenses incurred in carrying out this section, out of such fees and out of any fines imposed for breach of any of the provisions of this section or of any regulations, plans, specifications or orders made under the authority thereof, and out of the funds appropriated for carrying out the work of the Corporation.

Powers of inspectors

(9) Every inspector appointed under this section may enter upon, pass over or through any land, building or premises at any reasonable hour for the purpose of performing the duties assigned to him under this section.

Liability

(10) Nothing in this Act or in any of the regulations, plans, specifications or orders issued under this section renders the Corporation or any of its inspectors or other employees liable, or affects the liability of any municipal or other corporation or commission, company, firm or individual, for any injury, loss or other damages caused to any person or property by reason of defects in any of the works or matters mentioned in this section or by reason of any order of the Corporation, notwithstanding any inspection or test or the issue of any certificate by the Corporation or by any of its inspectors or other employees.

Offences

(11) Every municipal or other corporation or commission, and every company, firm or individual,

(*a*) hindering, molesting, disturbing or interfering with an inspector or other employee in the performance of his duty under this section is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $50 for each offence;

(*b*) refusing or neglecting to comply with this section, or with any regulation, plan or specification made under its authority is guilty of an offence and on conviction is liable to a fine of not less than $25 and not more than $500 for each offence;

(*c*) refusing or neglecting to comply with any order issued by the Corporation under subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than $100 and not more than $500 and a further fine of not less than $100 and not more than $500 for each and every day upon which such refusal or neglect is repeated or continued.

Disposition of fines

(12) The fines recovered for offences against this section shall be paid over to the Corporation.

Section not to apply to mines
R.S.O. 1980, c. 268

(13) This section does not apply to a mine as defined in the *Mining Act*, save only as regards any dwelling house or other building not connected with or required for mining operations or purposes or used for the treatment of ore or mineral. R.S.O. 1970, c. 354, s. 94; 1973, c. 57, s. 2.

Debentures for extension or improvement not to be issued without approval of Corporation

94.—(1) A municipal corporation that has entered into a contract with the Corporation for the supply of power shall not pass a by-law for the issue of debentures, or borrow money by other means, for any extension or improvement to a power system without having first obtained the assent of the Corporation to the amount of such issue and borrowing and the purposes to which the proceeds of the issue are to be applied.

(2) Every member of the council of a municipality passing a by-law in contravention of subsection (1) is personally responsible for any loss or expense occasioned to the municipal corporation by such action unless he shows that he voted against the passing of the by-law or did everything in his power to prevent the passing of the by-law. Liability of members of council

(3) Every by-law passed in contravention of subsection (1) is illegal and void, and the Corporation may take the same proceedings for quashing the by-law, or restraining the municipal corporation from issuing debentures thereunder as might be taken by a ratepayer of the municipality. By-law void

(4) This section has effect notwithstanding the provisions of any other general or special Act relating to any municipal corporation. Section to have effect notwithstanding

(5) This section does not apply to any by-law or by-laws authorizing the issue of debentures to defray the cost of, or to repay temporary loans incurred in connection with any works mentioned in subsection (1), when the estimated cost of such works and the borrowing of the estimated cost has been approved by the Corporation and the principal amount of the debentures so authorized does not exceed the estimated cost aforesaid by more than 5 per cent. Issue of debentures when Corporation approves estimated cost

(6) Equipment, plant and works constructed and erected pursuant to clause 2 (1) (*n*) of the *Local Improvement Act* shall be deemed not to be extensions or improvements within the meaning of this section. Restriction as to application of local improvement by-law
R.S.O. 1980, c. 250

(7) For the purposes of this section, The Municipality of Metropolitan Toronto shall be deemed to be a municipal corporation that has entered into a contract with the Corporation for the supply of power. R.S.O. 1970, c. 354, s. 95; 1973, c. 57, s. 2. Metropolitan Toronto

95.—(1) The rates and charges for supplying power, and the rents and charges to meet the cost of any work or service done or furnished for the purposes of a supply of power, chargeable by any municipal corporation generating or receiving and distributing power are subject at all times to the approval and control of the Corporation, and the rates, and such rents and charges, charged by any company or individual receiving power from the Corporation for the supply of power are subject at all times to such approval and control. Rates and charges to be approved

(2) Notwithstanding this Act, the Corporation may from time to time, when in its opinion it is in the interests of the municipal corporations under contract with the Corporation so Powers as to fixing municipal rates

to do, make orders fixing the rates to be charged by the corporation or commission of any municipality having a population of less than 200,000 for power supplied by the Corporation.

Where amount collected proves insufficient

(3) In a municipality where the rates fixed by the Corporation under subsection (2) prove insufficient to provide for the costs of supplying power in the municipality, the Corporation may charge the deficit to the stabilization fund account and may from time to time impose such terms as to repayment of the amount so charged together with interest thereon, or any part thereof, or may relieve the municipality from obligation to repay the same to such extent as to the Corporation seems just and equitable. R.S.O. 1970, c. 354, s. 96; 1973, c. 57, s. 2.

System of bookkeeping

96.—(1) The Corporation may prescribe for any municipal corporation or municipal commission receiving electrical power from the Corporation for distribution a system of bookkeeping and keeping accounts of the assets, liabilities, revenues and expenditures in respect of the production, development, distribution or sale of electrical power or the dealing in electrical fittings, fixtures, appliances, machines or equipment.

Returns and statements

(2) The Corporation may require from any municipal corporation or municipal commission that owns, operates, controls or manages an electrical public utility receiving electrical power from the Corporation for distribution such returns and statements as the Corporation considers proper, and the Corporation shall have access to and the right to inspect the books, records, minutes, statements and returns relating to such electrical public utility and to extract therefrom such information as in the opinion of the Corporation may be useful for publication and to embody any of the information in the reports of the Corporation. R.S.O. 1970, c. 354, s. 97; 1973, c. 57, s. 2.

Insurance by municipalities

97.—(1) Subject to subsections (2), (3) and (7), every municipal corporation and municipal commission supplied with electrical power by the Corporation shall maintain insurance against liability for bodily injury and property damage arising from the operation of an electrical utility in such amount and upon such terms as the Corporation may direct.

Insurance fund

(2) A municipal corporation or municipal commission may, with the approval of the Corporation, establish in lieu of such insurance a fund sufficient in the opinion of the Corporation to protect the municipal corporation or municipal commission against the liability and thereupon it is not necessary for it to comply with subsection (1).

(3) If a municipal corporation or municipal commission is in Schedule 1 of the regulations made under the *Workmen's Compensation Act* and is paying assessments to the Workmen's Compensation Board, it is not necessary for it to maintain insurance against liability for bodily injury to its employees. Where insurance not necessary R.S.O. 1980, c. 539

(4) Notwithstanding anything in the *Insurance Act* or in any other Act, the Corporation may effect insurance on behalf of municipal corporations or municipal commissions that it supplies with electrical power against liability for bodily injury and property damage arising from the operation of an electrical utility. Group insurance for municipalities R.S.O. 1980, c. 218

(5) The contract of insurance effected under subsection (4) may, if desired by the Corporation, include the Corporation as a party insured against liability and may protect more than one municipal corporation or municipal commission. Corporation included in group insurance

(6) The cost of insurance effected under subsection (4) is, except in so far as it is for the protection of the Corporation, chargeable to the protected municipal corporations or municipal commissions as part of the cost of power payable by them. How cost chargeable

(7) Where a municipal corporation or municipal commission is an insured party under a contract of insurance effected under subsection (4), it is not necessary for it to comply with subsection (1). R.S.O. 1970, c. 354, s. 98; 1973, c. 57, s. 2. Where insurance under subs. (1) not necessary

98. Where it appears to the Corporation upon examination of the accounts of a municipal corporation or municipal commission receiving power from the Corporation under a contract between the municipal corporation and the Corporation under this Act that there are arrears due and owing for electrical power supplied by the municipal corporation or municipal commission, or for rents, rates, costs and charges in connection with the service or supply of such power or for the installation of any works for such service or supply, and that the municipal corporation or municipal commission has not taken the necessary proceedings for the collection of such arrears, the Corporation may give, in writing, such directions as it considers proper, signed by the chairman or secretary, for the collection of the arrears by any method by which they may be collected, and it is the duty of the municipal corporation or municipal commission forthwith after receiving such directions to take all proceedings necessary to carry them into effect. R.S.O. 1970, c. 354, s. 99; 1973, c. 57, s. 2. Collection of arrears on direction from Corporation

99. Where a municipal corporation or a municipal commission receiving electrical power from the Corporation under a contract made with the Corporation under this Act, Offences

(*a*) supplies electrical power to any person upon terms and at rates other than those that have been approved of by the Corporation;

(*b*) grants to any person to whom electrical power is supplied by the municipality or commission, special terms by way of bonus or otherwise as to the rates to be paid for electrical power or as to the terms at which they are to be supplied;

(*c*) neglects or refuses to carry out any direction of the Corporation given under section 98;

(*d*) by any means whatsoever, directly or indirectly reduces the cost of electrical power to any person so that it is supplied to such person at a lower rate or upon better terms than those approved of by the Corporation;

(*e*) fails to keep accounts in the manner prescribed by the Corporation or makes improper entries therein, or charges against any account items not properly chargeable thereto,

Disqualification of councillor or commissioner

such municipal corporation or municipal commission is guilty of an offence, and every member of the municipal council of such municipal corporation or every member of the municipal commission, as the case may be, is disqualified from sitting and voting in the council or from election thereto, or from acting as a member of the municipal commission or being appointed thereto, and from holding any other municipal office for a period of five years from the date of the judgment or order declaring his disqualification, and proceedings may be taken against him in the same manner as in the case of a member of a municipal council who has become disqualified or has forfeited his seat under the *Municipal Act*, but no member of the municipal council or of the municipal commission, as the case may be, shall be found to be so disqualified who proves to the satisfaction of the court or judge before whom the application for a declaration of his disqualification is made, that he was not a party to the offence and that he did everything in his power to prevent the commission of the offence. R.S.O. 1970, c. 354, s. 100; 1973, c. 57, s. 2.

R.S.O. 1980, c. 302

When default made Corporation may take action

100. When a municipal corporation or a municipal commission neglects or refuses to carry out any of the provisions of this Act or any direction or regulation lawfully given or made under this Act, the Corporation, if it considers it necessary or desirable so to do, may appoint some person to do whatever is necessary to remedy such neglect or default and

to comply with this Act or any such direction or regulation, and the reasonable and proper costs and charges incurred by the Corporation in so doing is a debt due and payable by the municipal corporation or municipal commission to the Corporation and shall be added to and collected with the charges set out in section 75. R.S.O. 1970, c. 354, s. 101; 1973, c. 57, s. 2.

Utilization of funds

101. A municipal corporation or municipal commission receiving power from the Corporation for distribution may utilize, subject to the approval of the Corporation, funds in its hands over and above current operating requirements derived from or pertaining to the municipal electric utility for which such power is received for any of the following purposes and not otherwise:

1. In the reduction of any indebtedness incurred in the construction and equipment of works for the production, development, distribution or sale of power.

2. In the construction and extension of works for the production, development, distribution or sale of power.

3. In the construction, reconstruction, alteration, rebuilding, reassembling, replacing or whatever else may be necessary in respect of works for receiving power from the Corporation and distributing it at a changed periodicity in alternations of current.

4. In purchasing or otherwise acquiring or constructing buildings for the occupation and use of the municipal electric utility as offices and for other business purposes, subject to the further approval of the Corporation of the site, cost and plans of any such building and, if so approved, any such building may be larger than is required for the immediate use of the municipal electric utility, and any part of any such building not immediately required for the use of the municipal electric utility may be leased by it.

5. In the renewal of any such building.

6. In the purchase of any of the following securities:

    i. The bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or the Government of Ontario.

    ii. The deposit receipts, deposit notes, certificates of deposit and other similar instruments issued

1980-81, c. 40 (Can.)

by any chartered bank to which the *Bank Act* (Canada) applies.

iii. The guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*. R.S.O. 1970, c. 354, s. 102; 1973, c. 57, s. 2.

R.S.O. 1980, c. 249

When accounts of a corporation show a surplus

102.—(1) Whenever it appears from the accounts of a municipal corporation or municipal commission receiving electrical power from the Corporation for distribution that there is a surplus of revenue derived from or pertaining to an electric utility over the expenses thereof after providing for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the production, development, distribution or sale of electrical power, and for such depreciation and other reserves as the Corporation considers proper, the surplus shall be applied and disposed of in such manner as the Corporation by general regulation or special order may direct.

Application of section

(2) Subsection (1) applies to every municipal corporation or municipal commission that has entered into a contract with the Corporation for the supply of electrical power and has effect notwithstanding any general or special Act, and shall be deemed so to have applied and to have had effect since the 16th day of April, 1912.

Liability for misapplication of funds

(3) Any member of the council of a municipal corporation and any member of a municipal commission where such municipal corporation or municipal commission is receiving electrical power from the Corporation for distribution by an electric utility who is in any manner a party to any disposition or application of a surplus referred to in subsection (1) other than that directed by the Corporation, or to any disposition, use, application or dealing with funds pertaining to such electric utility in any manner prohibited by this or any other Act shall forfeit his office and proceedings may thereupon be taken against him as provided in the *Municipal Act* in the case of a member of a municipal council who has become disqualified, and the Corporation may take the same proceedings in respect thereof as might be taken by a ratepayer of the municipality.

R.S.O. 1980, c. 302

Disqualification

(4) If it is found upon such proceedings that such member of the municipal council or commission has forfeited his office, he is disqualified from holding any municipal office for a period of two years thereafter. R.S.O. 1970, c. 354, s. 103; 1973, c. 57, s. 2.

Orders of Corporation, penalty for disobeying

103. A municipal corporation or municipal commission and any company or individual neglecting or refusing to obey and carry out any order, regulation, prohibition or direction of the Board made under section 92, or any order, regulation, prohibition or direction of the Corporation made under sections 72, 93, 95, 96, 97, 98, 99 and 102, in addition to any other liability, shall forfeit to Her Majesty for the use of Ontario, the sum of $100 for each day during which such neglect or refusal continues. R.S.O. 1970, c. 354, s. 104; 1973, c. 57, s. 18.

Ordering wires under ground

104.—(1) Where the Corporation is of opinion that it is necessary or expedient for the protection of life or property, or for the convenience of the public, that the use of overhead lines upon any highway or part thereof in a city or town, including the wires of telegraph, telephone, or power companies, should be discontinued, the Corporation may so direct, and, upon such terms and subject to such conditions as it prescribes, may require that such wires be placed and carried in underground conduits to be constructed and maintained in accordance with the directions and to the satisfaction of the Corporation, and may abrogate any right to carry lines on poles in such city or town that may have been given by any Act or by any municipal by-law, licence or agreement.

Interpretation

(2) In this section, as in sections 105 and 106,

(*a*) "company" includes a municipal corporation or municipal commission, a partnership and an individual, owning, leasing, using or controlling lines in a city or town;

(*b*) "lines" means the wires, cables or other conductors used for the purpose of conveying or distributing power for telegraph, telephone or power purposes. R.S.O. 1970, c. 354, s. 105; 1973, c. 57, s. 2.

Construction of tunnel

105.—(1) Where a city or town is willing to undertake the construction of a tunnel, conduits or other system for carrying lines underground in any highway or part thereof, the Corporation, upon such terms and subject to such conditions as it may prescribe, may require all companies whose lines are carried overhead upon any such highway or public communication to make use of such tunnel or conduits or other system for the purpose of carrying their lines, and to pay to the municipality such compensation for the use thereof as is agreed upon or as the Corporation may determine, and such compensation may be either a lump sum or a sum to be paid annually or periodically as the Corporation may determine and direct.

Powers of corporation of city or town

R.S.O. 1980, c. 302

(2) Where a city or town desires to construct a tunnel, conduits or other system for the purpose mentioned in subsection (1), it may do so and may exercise in respect thereof the powers of expropriation conferred upon the corporation by the *Municipal Act*.

Works subject to direction of Corporation

(3) All works undertaken under this section shall be done in accordance with the directions and to the satisfaction of the Corporation, and shall be maintained, kept in repair, altered, enlarged or improved to the satisfaction of the Corporation and as it may direct. R.S.O. 1970, c. 354, s. 106; 1973, c. 57, s. 2.

Overhead lines, disobedience of orders respecting

106. If any order or direction of the Corporation for discontinuing the use of overhead lines is not obeyed, the lines, poles and other structures in connection therewith upon the highway shall be deemed to be unlawfully erected and maintained, and may be removed by or under the direction of the Corporation and at the expense of the owner or user of them, and the company owning or using such lines shall incur a penalty of $100 for each day during which the order of the Corporation is disobeyed. R.S.O. 1970, c. 354, s. 107; 1973, c. 57, s. 2.

PART VI

MUNICIPAL COMMISSIONS

Municipal commissions to be established

R.S.O. 1980, c. 423

107.—(1) Except as provided in this section, notwithstanding anything in any general or special Act, subsection 39 (3) of the *Public Utilities Act* applies in every city and town that has entered into a contract with the Corporation for the supply of power and a commission shall be established under Part III of the *Public Utilities Act* for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of power.

Municipal commission, how composed in city of 60,000 or over

(2) Notwithstanding *An Act respecting the City of Toronto*, being chapter 119 of the Statutes of Ontario, 1911, in a city having a population of 60,000 or over according to the last enumeration of the assessor, the corporation of which has entered into a contract with the Corporation under this Act, the commission to be established for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of power may consist of three members, one of whom shall be the mayor of the city, one of whom shall be appointed by the municipal council of the city for two years and until his successor is appointed, and the third of whom shall be appointed by the Corporation for two years and until his successor is appointed, and such appointees are eligible for reappointment.

Appointment of successor to commissioner appointed by Corporation

(3) If an appointed member of a commission referred to in subsection (2) dies, or wishes to resign, or refuses to act, or becomes unable from any cause to perform his duties, the municipal council or the Corporation, as the case may be, may appoint a successor in his stead for the remainder of his term of office, and such successor is eligible for reappointment. R.S.O. 1970, c. 354, s. 108; 1973, c. 57, s. 2.

Agreement to extend to municipal commissions, boards, etc.

108. Where by this Act or by any contract heretofore or hereafter entered into between the Corporation and a municipal corporation, duties are imposed upon or covenants or undertakings are entered into by the municipal corporation, they extend to and shall be deemed to include and are binding upon any commission having the management or control of any public utility or other municipal undertaking for and on behalf of the municipal corporation, and any board of education, board of secondary school trustees or board of public school trustees appointed or elected for the municipality represented by the municipal corporation. R.S.O. 1970, c. 354, s. 109; 1973, c. 57, s. 2.

CHAPTER 385

Power Corporation Insurance Act

Interpretation

1. In this Act,

(*a*) "Corporation" means Ontario Hydro;

(*b*) "insurance corporation" means a corporation licensed to transact the business of insurance and enter into contracts for insurance in Ontario under the *Insurance Act*; R.S.O. 1980, c. 218

(*c*) "municipal authority" means a municipal corporation or commission distributing electrical power or energy in a municipality. R.S.O. 1970, c. 355, s. 1; 1973, c. 59, s. 2.

Agreement between Corporation and municipal authority R.S.C. 1970, c. G-6

2.—(1) The Corporation may enter into an agreement with any municipal authority or group of municipal authorities authorizing the Corporation to contract with an insurance corporation or with Her Majesty pursuant to the *Government Annuities Act* (Canada) for insurance for the employees of such municipal authority or municipal authorities by way of service annuities, income annuities or death or disability benefits or such other benefits as may by the Corporation be considered expedient and for payment by the municipal authority or authorities of the cost of such insurance and the cost of or incidental to the administration and operation of the contract, and any other expenses incurred or for which the Corporation may be liable in connection therewith. R.S.O. 1970, c. 355, s. 2 (1); 1973, c. 59, s. 3 (1).

Agreement with insurance corporation

(2) The Corporation on behalf of any such municipal authority or group may, with the approval of the Lieutenant Governor in Council, enter into an agreement with an insurance corporation or with Her Majesty pursuant to the *Government Annuities Act* (Canada) for providing insurance for the employees of such municipal authority or group by way of service annuities, income annuities or death or disability benefits, or such other benefits as may by the Corporation be considered expedient, and for the enforcement of any such contract and for the administration of its operation by the Corporation or by any other person or corporation on behalf of such municipal authority or group. R.S.O. 1970, c. 355, s. 2 (2); 1973, c. 59, s. 3 (2).

Power to amend

(3) Notwithstanding anything in subsection (1) or in any agreement made thereunder, the Corporation, with the approval of the Lieutenant Governor in Council, may enter into further agreements with any such insurance corporation or with Her Majesty pursuant to the *Government Annuities Act* (Canada) varying, adding to or modifying as the Corporation considers necessary or advisable any agreement entered into under subsection (2) or this subsection and every such further agreement is legal, valid and binding upon each municipal authority on behalf of which it is entered into and upon the successors and assigns of such municipal authority. R.S.O. 1970, c. 355, s. 2 (3); 1973, c. 59, s. 3 (3).

R.S.C. 1970, c. G-6

Cost of insurance, how borne

3.—(1) The cost of insurance and the cost of and incidental to the administration and operation of the contract and any other expenses incurred or for which the Corporation may be liable in connection therewith is payable by each of the municipal authorities on whose behalf the contract is undertaken as part of the cost of operation of the works of the municipal authority and shall be apportioned and distributed by the Corporation among the municipal authorities in any such group in such manner as the Corporation considers equitable. R.S.O. 1970, c. 355, s. 3 (1); 1973, c. 59, s. 4 (1).

Regulations

(2) The Corporation, with the approval of the Lieutenant Governor in Council, may make regulations prescribing the terms and conditions for the required payments under subsection (1), and the time and manner in which such payments shall be made and the returns and the accounts to be furnished by any municipal authority and the contributions to be made by the employees of any municipal authority party to the agreement. R.S.O. 1970, c. 355, s. 3 (2); 1973, c. 59, s. 4 (2).

Agreement between municipal authority and Her Majesty

4. Upon the recommendation of the Corporation and with the approval of the Lieutenant Governor in Council, a municipal authority may enter into an agreement with Her Majesty pursuant to the *Government Annuities Act* (Canada) for providing insurance for the employees of such municipal authority by way of service annuities, income annuities or death or disability benefits, or such other benefits as may by the Corporation be considered expedient. R.S.O. 1970, c. 355, s. 4; 1973, c. 59, s. 5.

CHAPTER 386

Powers of Attorney Act

1. In this Act, Interpretation

(*a*) "attorney" means the donee of a power of attorney or where a power of attorney is given to two or more persons, whether jointly or severally or both, means any one or more of such persons;

(*b*) "legal incapacity" means mental infirmity of such a nature as would, but for this Act, invalidate or terminate a power of attorney and "legal capacity" has a corresponding meaning. 1979, c. 107, s. 1.

2. A general power of attorney may be in Form 1 and is sufficient authority for the donee of the power or, where there is more than one donee, for the donees acting jointly or acting jointly and severally, as the case may be, to do on behalf of the donor anything that the donor can lawfully do by an attorney, subject to such conditions and restrictions, if any, as are contained therein. 1979, c. 107, s. 2. Form of general power of attorney

3.—(1) Where a power of attorney is terminated, any subsequent exercise of the power by the attorney is valid and binding as between the donor or the estate of the donor and any person, including the attorney, who acted in good faith and without knowledge of the termination. Exercise of power after termination

(2) Where money is paid in the exercise of a power of attorney to which subsection (1) applies, nothing in subsection (1) affects the right of any person entitled to the money against the person to whom the payment is made, and the person so entitled has the same remedy against the person to whom the payment is made as he would have had against the person making the payment. 1979, c. 107, s. 3. Saving

POWER OF ATTORNEY DURING LEGAL INCAPACITY

4. Sections 5 to 10 apply notwithstanding any agreement or waiver to the contrary. 1979, c. 107, s. 4. Application of ss. 5-10

5. A provision in a power of attorney expressly stating that it may be exercised during any subsequent legal incapacity of the donor is valid and effectual, subject to such conditions and Powers of attorney exercisable while donor without capacity

restrictions, if any, as are contained therein and not inconsistent with this Act. 1979, c. 107, s. 5.

Execution

6. A power of attorney that contains a provision referred to in section 5 shall be executed in the presence of a witness who is not the attorney or the attorney's spouse. 1979, c. 107, s. 6.

Revocable

7. A power of attorney that contains a provision referred to in section 5 may be revoked by the donor at any time while he has legal capacity. 1979, c. 107, s. 7.

Effect of declaration of mental incompetency

8. A power of attorney that contains a provision referred to in section 5 becomes invalid and of no effect, notwithstanding such provision, where,

(*a*) an order has been made declaring the donor a mentally incompetent person and upon the appointment of a committee;

(*b*) an order has been made declaring the donor incapable of managing his affairs under section 39 of the *Mental Incompetency Act* and upon the appointment of a person having the powers of a committee;

R.S.O. 1980, c. 264

(*c*) the Public Trustee becomes committee of the estate of the donor. 1979, c. 107, s. 8.

Passing accounts

9.—(1) Where a power of attorney contains a provision referred to in section 5 and the donor subsequently is without legal capacity, any person having an interest in the estate of the donor or any other person permitted by the court may, during such incapacity, apply to the surrogate court in the county or district where the donor or the donee resides for an order requiring the attorney to pass his accounts for transactions involving an exercise of the power during the incapacity of the donor, and the court may order the attorney to pass such accounts or such part thereof as is provided in the order.

Procedure and effect

(2) Where an order is made under subsection (1), the attorney shall file his accounts in the office of the surrogate court and the proceedings and practice upon the passing of the accounts shall be the same and of the like effect as the passing of executors' or administrators' accounts in the surrogate court.

Application by Public Trustee

(3) The Public Trustee may apply under subsection (1) in the same manner as a person interested in the estate of the donor where it appears to him desirable to do so in the best interests of the donor or his estate. 1979, c. 107, s. 9.

Substitution of attorney

10.—(1) Where a power of attorney contains a provision referred to in section 5 and the donor subsequently is without legal

capacity, any person having an interest in the estate of the donor or any other person permitted by the court may, during such incapacity, apply to the surrogate court in the county or district where the donor or the donee resides for an order substituting another person for the attorney named in the power of attorney and the court may make the order or such other order as the court considers proper.

Effect of substitution

(2) The substitution of another person for an attorney under subsection (1) shall have the like effect as the substitution of another person for a trustee under the *Trustee Act*. R.S.O. 1980, c. 512

Application by Public Trustee

(3) The Public Trustee may apply under subsection (1) in the same manner as a person interested in the estate of the donor where it appears to him desirable to do so in the best interests of the donor or his estate.

Application by attorney

(4) The attorney may apply under subsection (1) in the same manner as a person interested in the estate of the donor, on giving notice to the Public Trustee and to all persons having an interest in the estate of the donor. 1979, c. 107, s. 10.

Form 1

Form of Power of Attorney

THIS GENERAL POWER OF ATTORNEY is given on .....,19...
(Date)

by ..... of .....
(Donor)

I appoint .....of ..... (or
(Attorney)

..... of ..... and ..... of
(Attorney) (Attorney)

..... jointly *or* jointly and severally) to be my attorney(s) in accordance with the *Powers of Attorney Act* and to do on my behalf anything that I can lawfully do by an attorney.

(The following paragraph may be included if the donor wishes the authority granted by this power of attorney to continue notwithstanding any subsequent mental infirmity on his part:)

In accordance with the *Powers of Attorney Act*, I declare that this power of attorney may be exercised during any subsequent legal incapacity on my part.

This power of attorney is subject to the following conditions and restrictions:

(N.B. this space may be left blank.)

WITNESSED BY:

.....
(Signature of Witness)

.....
(Name of Witness)

.....
(Address)

.....
(Donor)

1979, c. 107, Form 1.

CHAPTER 387

Prearranged Funeral Services Act

Interpretation

1. In this Act, "funeral services" means the services usually provided by a funeral director licensed under the *Funeral Services Act* and the provision of funeral supplies and services to the public other than a cemetery plot. 1979, c. 30, s. 1, *part*.

R.S.O. 1980, c. 180

Agreements for prearranged funeral services

2. Unless he is an insurer licensed under the *Insurance Act*, or a person licensed as a funeral director under the *Funeral Services Act* and engaged in directing the operation of a funeral services establishment, no person shall agree or offer to agree, for a consideration that is fixed by the agreement, to furnish or make provision for funeral services upon the death of a person who is alive at the time the agreement or offer is made. 1979, c. 30, s. 1, *part*.

R.S.O. 1980, c. 218

When existing agreements void

3. Every agreement entered into before the 18th day of April, 1962 and which would contravene this Act if it were entered into on or after that date is null and void and shall be deemed to be a contract to which the *Frustrated Contracts Act* applies. R.S.O. 1970, c. 358, s. 3.

R.S.O. 1980, c. 179

Money in trust

4.—(1) Every person who receives money under an agreement referred to in section 2 shall receive and hold such money together with any interest accrued thereon in trust until the agreement has been fully performed by him or the agreement has been cancelled.

Idem

(2) Where an agreement referred to in subsection (1) is cancelled, the person holding money in trust under that agreement shall forthwith pay such money to the person entitled thereto. 1979, c. 30, s. 2.

Regulations

5.—(1) The Lieutenant Governor in Council may make regulations governing the manner in which trust accounts shall be kept and accounted for and providing for their inspection. R.S.O. 1970, c. 358, s. 5 (1).

Inspection and misuse of trust money

(2) The Board of Funeral Services under the *Funeral Services Act* shall cause the trust accounts to be inspected as required by the regulations, and any misuse of trust funds shall be deemed to be sufficient grounds for cancellation of a licence under the *Funeral Services Act*. 1979, c. 30, s. 3.

Offence

6. Every person who contravenes section 2 is guilty of an offence and on conviction is liable, if an individual, to a fine of not more than $1,000, and, in default of payment, to imprisonment for not more than three months, and, if a corporation, to a fine of not more than $2,000. R.S.O. 1970, c. 358, s. 6.

CHAPTER 388

Prepaid Hospital and Medical Services Act

Interpretation

1. In this Act,

(*a*) "association" means any company or corporation incorporated for the purpose of establishing, maintaining and operating a hospital or medical service or providing prescription drugs on a non-profit prepayment basis, whereby any one or more of hospital, medical, surgical, nursing or dental services or provision of prescription drugs or payment therefor may be provided to persons who become subscribers with, or members of, such company or corporation, or for these and similar purposes, but does not include an insurer licensed under the *Insurance Act* or a pension fund or employees' mutual benefit society incorporated under Part V of the *Corporations Act*; R.S.O. 1980, cc. 218, 95

(*b*) "pharmacist" means a person registered as a pharmaceutical chemist under Part VI of the *Health Disciplines Act*; R.S.O. 1980, c. 196

(*c*) "prescription drug" means a drug as defined in Part VI of the *Health Disciplines Act* dispensed upon the prescription of a legally qualified medical practitioner or dentist to a named person, and includes such drug mixed with any other drug or substance;

(*d*) "Superintendent" means the Superintendent of Insurance under the *Insurance Act*. R.S.O. 1970, c. 360, s. 1; 1974, c. 47, s. 168 (2).

Registered associations exempt from R.S.O. 1980, c. 218

2. Every association registered under this Act is exempt from the *Insurance Act*. R.S.O. 1970, c. 360, s. 2.

Incorporation

3. No letters patent granting a charter to an association under the *Corporations Act* and no articles of incorporation of an association under the *Business Corporations Act* shall be issued without the written approval of the Superintendent. R.S.O. 1970, c. 360, s. 3. R.S.O. 1980, c. 54

No association to carry on business unless registered

4. No association shall, in Ontario, contract to furnish hospital, medical, surgical, nursing or dental service or prescription

drugs, or any combination of them, on a prepayment basis or make payment therefor unless registered under this Act. R.S.O. 1970, c. 360, s. 4.

Application for registration

5.—(1) Every application for registration shall be made in writing to the Superintendent and shall be accompanied,

(*a*) by the prescribed fee;

(*b*) by a certified copy of the Act or other instrument of incorporation of the association and of its constitution, by-laws and regulations;

(*c*) by a copy of every contract or proposed contract with a hospital, physician, pharmacist and other person for the rendering of services to subscribers or members;

(*d*) by a copy of every form of contract or proposed contract with subscribers or members;

(*e*) by a certified list of rates charged or to be charged to subscribers or members together with details of the benefits that the association contracts to furnish to subscribers or members;

(*f*) by a copy of the balance sheet of the association and a statement of income and expenditures as of the close of its last fiscal year, certified by the president, or vice-president, and the managing director or some other principal officer of the association and reported on by its auditor;

(*g*) by such information or material as the Superintendent may require.

Registration to be granted by Superintendent

(2) The Superintendent shall grant registration to an association if he is satisfied,

(*a*) that the applicant is established as a *bona fide* association;

(*b*) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers or members are fair and reasonable;

(*c*) that the applicant has established and has such working capital and reserves as the Superintendent considers adequate;

(*d*) that the rates charged or to be charged to subscribers or members are not excessive, inadequate, unfairly discriminatory between risks or otherwise unreasonable; and

(*e*) that the applicant has complied with the provisions of subsection (1). R.S.O. 1970, c. 360, s. 5.

Application for renewal of registration

6.—(1) Every application for renewal of registration shall be made in writing to the Superintendent on or before the 21st day of March in each year and shall be accompanied by the prescribed fee and such information and material as the Superintendent may require.

Renewal of registration

(2) The Superintendent shall grant renewal of registration to an association if he is satisfied,

(*a*) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers and members are fair and reasonable;

(*b*) that the applicant has such working capital and reserves as the Superintendent considers adequate;

(*c*) that the rates charged or to be charged to subscribers or members are not excessive, inadequate, unfairly discriminatory between risks or otherwise unreasonable; and

(*d*) that the applicant has complied with subsection (1). R.S.O. 1970, c. 360, s. 6.

Filing of proposed rate change

7.—(1) An association shall file with the Superintendent any proposed change in rates at least thirty days prior to the effective date of the change, together with particulars as to how any such rate is made up, and shall furnish such other further information with respect thereto that the Superintendent may require.

Order of prohibition

(2) The Superintendent may, within thirty days of the filing with him of any notice of a proposed change in rates, by order prohibit the proposed change in rates if, in his opinion, such proposed change in rates would be excessive, inadequate, unfairly discriminatory between risks or otherwise unreasonable. R.S.O. 1970, c. 360, s. 7.

Termination and renewal of registration

8. Every registration and renewal of registration lapses on the 31st day of March in each year. R.S.O. 1970, c. 360, s. 8.

Suspension and cancellation

9.—(1) The Superintendent may suspend or cancel any registration upon any grounds that would justify refusal to grant registration or renewal of registration or where the association fails to comply with any provision of this Act.

Conditional or limited registration

(2) Any registration, or renewal of registration, may be granted by the Superintendent subject to such limitations and conditions relating to the operations of the association that the Superintendent considers necessary to give effect to this Act or for the protection of persons, subscribers or members of any association in Ontario.

Application of s. 7, ss. 12-17

(3) Where the registration of a registered association lapses or is suspended or cancelled and where the Superintendent considers it necessary for the protection of persons, subscribers or members, the Superintendent may designate the association as one to which this Act continues to apply and, until the designation is revoked, section 7 and sections 12 to 17 apply to such designated association in the same manner as to a registered association.

Winding up R.S.O. 1980, cc. 95, 54

(4) The Superintendent may apply to the court under section 244 of the *Corporations Act* or section 209 of the *Business Corporations Act* as appropriate for an order winding up an association that has ceased issuing contracts to its members or subscribers and sections 243 to 271 of the *Corporations Act* or sections 207 to 237 of the *Business Corporations Act,* as the case may be, apply thereto. R.S.O. 1970, c. 360, s. 9.

Cancellation by request of association

10. The Superintendent may at the request of an association, evidenced as he directs, cancel its registration. R.S.O. 1970, c. 360, s. 10.

Further application for registration

11. Notwithstanding any decision of the Superintendent, a further application for registration or renewal of registration may be made upon new or other material or where it is clear that any material circumstance has changed. R.S.O. 1970, c. 360, s. 11.

Appeal

12.—(1) An association that considers itself aggrieved by a decision of the Superintendent may appeal therefrom to the Divisional Court.

When to be set down

(2) The appeal shall be set down for argument at the first sitting of the court that commences after the expiration of thirty days from the decision complained of.

Record

(3) The Superintendent shall certify to the Registrar of the Supreme Court the decision appealed from, his reasons therefor, and the documents, information and material he had before him in making such decision. R.S.O. 1970, c. 360, s. 12.

Filing of by-laws

13.—(1) Every registered association shall deliver to the Superintendent within one month of the passing thereof a certified copy of any by-law passed by the board of directors.

Filing of balance sheet, etc.

(2) Not later than four months after the expiration of its fiscal year, every registered association shall file with the Superintendent a balance sheet and a statement of income and expenditures for such fiscal year, certified by the president, or vice-president, and the managing director or some other principal officer of the association and reported on by its auditor, and such other financial statements as the Superintendent may require.

Time for filing may be extended

(3) On sufficient cause shown, the Superintendent may by writing extend the time for filing the statements required under subsection (2). R.S.O. 1970, c. 360, s. 13.

General statement of affairs

14.—(1) Not later than four months after the expiration of its last fiscal year, every registered association shall prepare a general statement of its affairs in a form approved by the Superintendent.

Time may be extended for preparation

(2) On sufficient cause shown, the Superintendent may by writing extend the time for the preparation of a general statement of affairs under subsection (1).

Statement to be attested

(3) Every such statement shall be attested by the signature of the president, or vice-president, and the managing director or some other principal officer of the association and shall be accompanied by the auditor's report.

Copies to subscribers on request

(4) A copy of such statement shall be mailed or delivered without charge to any subscriber or member who requests a copy. R.S.O. 1970, c. 360, s. 14.

Inspection of books, etc.

15.—(1) The Superintendent or his duly authorized representative may at any time make or cause to be made an inspection of the books, documents and records of any registered association.

Access to books, etc.

(2) Upon any such inspection, the Superintendent or his duly authorized representative is entitled to free access to all books of account, cash, securities, documents, bank accounts, vouchers, correspondence and records of every description of the association, and no person shall withhold, destroy, conceal

or refuse to furnish any information or thing reasonably required by the Superintendent or his representative under this section. R.S.O. 1970, c. 360, s. 15.

Investments

16. A registered association may invest its funds in the same manner and subject to the same limitations as apply to a joint stock insurance company under the *Insurance Act*, and not otherwise. R.S.O. 1970, c. 360, s. 16.

R.S.O. 1980, c. 218

Power to hold real property

17.—(1) A registered association may hold real property which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real property conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of such real property, but the association shall sell any such real property within seven years after it has been so acquired.

Idem

(2) A registered association may hold to its own use and benefit such real property as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of such real property.

Power to acquire and construct building

(3) A registered association, when authorized by its letters patent or by the Lieutenant Governor in Council, may construct on any lands held pursuant to subsection (2), or may acquire, a building larger than is required for the transaction of its business and may lease any part of the building not so required. R.S.O. 1970, c. 360, s. 17.

Fees for registration and renewal

18. The fee for registration or renewal of registration for an association is, where the income from subscribers or members in the previous fiscal year,

did not exceed $15,000	$ 10
exceeded $15,000 but did not exceed $50,000	15
exceeded $50,000 but did not exceed $100,000	25
exceeded $100,000 but did not exceed $250,000	50
exceeded $250,000 but did not exceed $1,000,000	100
exceeded $1,000,000	200

R.S.O. 1970, c. 360, s. 18.

Offence to carry on business unless registered

19. Every association not registered under this Act that contracts to furnish hospital or medical service on a prepayment basis or makes payment therefor is guilty of an offence and on conviction is liable to a fine of $100 for each day during which the association carries on such business. R.S.O. 1970, c. 360, s. 19.

CHAPTER 389

Private Hospitals Act

1. In this Act, Interpretation

(*a*) "applicant" means applicant or applicants, as the case may be;

(*b*) "house" means a building or other structure, whether permanent or temporary, intended for human habitation and, where two or more houses are situate on adjacent pieces of land and are occupied by the same person, they shall be deemed to constitute a single house for the purposes of this Act;

(*c*) "inspector" means an officer of the Ministry designated under this Act as an inspector;

(*d*) "Minister" means the Minister of Health;

(*e*) "Ministry" means the Ministry of Health;

(*f*) "municipality" means a metropolitan municipality, city, separated town, or county, except that in a territorial district it means a city, town, village, township or improvement district;

(*g*) "patient" means a person admitted to a private hospital for the purpose of treatment;

(*h*) "private hospital" means a house in which four or more patients are or may be admitted for treatment, other than,

(i) a hospital or other establishment or institution supported in whole or in part by provincial aid,

(ii) an institution in respect of which a licence under the *Private Sanitaria Act* is in force, R.S.O. 1980, c. 391

(iii) an institution for the reclamation and cure of habitual drunkards established under the *Municipal Act*, R.S.O. 1980, c. 302

R.S.O. 1980, c. 71

(iv) a children's residence registered under the *Children's Residential Services Act*,

(v) a lodging house licensed under a municipal by-law;

(*i*) "regulations" means the regulations made under this Act;

(*j*) "resident" means actually resident in a municipality for a period of three months within the six months next prior to admission to a private hospital;

(*k*) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a private hospital;

R.S.O. 1980, c. 497

(*l*) "territorial district" means any of the territorial districts set forth in the *Territorial Division Act*;

(*m*) "territory without municipal organization" means those parts of Ontario that are without municipal organization, including Indian reservations and provincial parks, but not including property of the Government of Canada used for the purposes of national defence installations, camps or stations;

(*n*) "treatment" means the maintenance, observation, nursing and medical care and supervision of a patient. R.S.O. 1970, c. 361, s. 1; 1972, c. 1, s. 1; 1973, c. 123, s. 1 (1).

Administration and enforcement of Act

2. The Minister shall administer and enforce this Act and the regulations. R.S.O. 1970, c. 361, s. 2.

Licence required to operate private hospital

3.—(1) No person shall use a house as a private hospital except under the authority of a licence issued under this Act before the 29th day of October, 1973, or a renewal of such a licence.

Offence

(2) Where a house is used as a private hospital in contravention of subsection (1), the occupier and each person concerned in the management or operation of the house or in the admission thereto or treatment therein of any patient are severally guilty of an offence and on conviction are each liable to a fine of not less than $100 and not more than $500 for each day upon which such contravention occurs or continues. 1973, c. 123, s. 2.

Use of term "hospital"

4.—(1) No person shall use the term "hospital" in connection with a house unless such use is duly authorized.

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than $500. R.S.O. 1970, c. 361, s. 4. Offence

5. No application under the *Corporations Act* or the *Business Corporations Act* to incorporate a corporation having as its object the operation of a private hospital shall be proceeded with. R.S.O. 1970, c. 361, s. 5 (2); 1973, c. 123, s. 3 (2). Applications to incorporate R.S.O. 1980, cc. 95, 54

6.—(1) Where subsection 3 (1) or section 22 is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention and the judge may make the order and, where the judge considers it proper, may postpone the operation of the order for a period of not more than thirty days after the day of the making of the order to permit patients in the house to find alternative accommodation and vacate the premises, and the order may be enforced in the same manner as any other order or judgment of the Supreme Court. Proceedings to prohibit continuation or repetition of contravention

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1973, c. 123, s. 4, *revised*. Appeal

7.—(1) Every licence is renewable annually in accordance with the regulations. Licence, renewal

(2) The fee for renewal of a licence is $10. Fee

(3) The Minister may refuse the licence of any private hospital if it was operated in a manner that contravened any provision of this Act or the regulations. Power to refuse renewal

(4) Where the licensee is a corporation, the Minister may refuse to renew its licence if the Minister is not satisfied as to the character of each director and officer of the corporation and as to his fitness to direct, manage or be associated with the operation of the private hospital. Refusal to renew licence

(5) When a licence is renewed, the Minister shall determine the class of hospital that may be operated and may change the class from that for which the hospital was licensed in the preceding year. Change of class of hospital on renewal of licence

(6) Where the renewal of a licence has been refused or where a licence has been revoked, the licence shall not be Offence

displayed in a manner that may induce a person to believe that it is still in force, and every person who so displays a licence is guilty of an offence and on conviction is liable to a fine of not less than $25 and not more than $500. R.S.O. 1970, c. 361, s. 7.

Death of one of joint licensees

8. Where a licence has been issued to two or more persons jointly and any of such persons dies leaving the other or others surviving during the currency of the licence, the licence remains in force and has the same effect as if it had been issued to the survivor or survivors. R.S.O. 1970, c. 361, s. 8.

Transfer of licence

9. A licence under this Act is transferable only where the proposed transferee obtains the prior written consent of the Minister to the transfer, but the Minister shall not grant his consent to the transfer until he is satisfied by such evidence as he may require as to the good character and the fitness of the transferee to manage and operate the private hospital. 1973, c. 123, s. 5.

Transfer of corporation shares

10.—(1) Where the licensee of a private hospital is a corporation with share capital, no share thereof shall be transferred without the prior approval of the Minister.

Appeal

(2) Where an application for the approval of the Minister to the transfer of shares under subsection (1) is refused, the applicant may appeal from the decision to the Divisional Court at any time within thirty days from his receipt of notice of the refusal, and the court may, upon the hearing of the appeal, make such order as to the transfer of the shares or confirming the Minister's decision and as to costs as the court considers just.

Procedure

(3) The appeal shall be by notice served upon the Minister, and shall be founded upon a copy of the application, a copy of any proceedings before the Minister, a copy of the decision of the Minister and upon any other material the court considers relevant. R.S.O. 1970, c. 361, s. 10, *revised*.

Death of licensee

11.—(1) When a licensee or the sole surviving licensee dies,

(*a*) the person to whom the private hospital passes may apply to have the licence transferred to him, but the Minister shall not grant his consent to the transfer until he is satisfied by such evidence as he may require as to the good character and the fitness of the transferee to manage and operate the private hospital; or

(*b*) the personal representative of the deceased licensee may apply to the Minister for a temporary licence

to permit the private hospital to continue in operation under the management of the personal representative for such period of time as in the opinion of the Minister is sufficient to allow the personal representative to dispose of the private hospital and to allow other accommodation to be provided for the patients in the hospital. R.S.O. 1970, c. 361, s. 11 (1); 1973, c. 123, s. 6.

Time limit

(2) Unless an application is made under subsection (1) within three months after the death of the licensee or of the sole surviving licensee, the licence is revoked. R.S.O. 1970, c. 361, s. 11 (2).

Revocation of licence

12.—(1) A licence may at any time be revoked by the Minister,

(*a*) if the licensee has made default for two months in paying the annual licence fee;

(*b*) if the licensee or superintendent has been convicted of an offence against this Act or of any offence punishable by imprisonment; or

(*c*) if, in the opinion of the Minister,

(i) the premises of the private hospital are unclean, unsanitary or without proper fire protection,

(ii) the standard of patient care provided in the private hospital is inadequate,

(iii) the private hospital is managed or conducted in a manner contrary to this Act or the regulations, or

(iv) the private hospital is managed or conducted in such a manner that the revocation of the licence is required in the public interest.

Notice to licensee

(2) Before a licence is revoked, the Minister shall give notice to the licensee or superintendent of the ground or grounds on which it is proposed to revoke the licence and shall afford to him an opportunity of showing cause why the licence should not be revoked. R.S.O. 1970, c. 361, s. 12.

Refusal to renew or consent to transfer or revocation

13.—(1) Where the Minister proposes to refuse to renew or consent to the transfer of a licence or proposes to revoke a licence under this Act, he shall serve notice of his proposal, together with written reasons therefor, on the licensee.

Notice requiring hearing
R.S.O. 1980, c. 20

(2) A notice under subsection (1) shall inform the licensee that he is entitled to a hearing by the Health Facilities Appeal Board under the *Ambulance Act* if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Minister and the Board and he may so require such a hearing.

Powers of Minister where no hearing

(3) Where a licensee does not require a hearing by the Health Facilities Appeal Board in accordance with subsection (2), the Minister may carry out the proposal stated in his notice under subsection (1).

Powers of Board where hearing

(4) Where a licensee requires a hearing by the Health Facilities Appeal Board in accordance with subsection (2), the Board shall appoint a time for and hold the hearing and, on the application of the Minister at the hearing, may by order direct the Minister to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Minister ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Minister.

Extension of time for requiring hearing

(5) The Health Facilities Appeal Board may extend the time for the giving of notice requiring a hearing by a licensee under this section either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and the Board may give such directions as it considers proper consequent upon the extension.

Continuation of licence pending renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before the expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Minister proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision. 1973, c. 123, s. 7, *part*.

Parties

14.—(1) The Minister or licensee who has required the hearing and such other persons as the Health Facilities

Appeal Board may specify are parties to proceedings before the Board under this Act.

Notice of hearing

(2) Notice of a hearing under section 13 shall afford the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the renewal, retention or transfer of the licence.

Examination of documentary evidence

(3) A licensee who is a party to proceedings under subsection (1) shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Health Facilities Appeal Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1980, c. 484

Only members at hearing to participate in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence

(8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. 1973, c. 123, s. 7, *part*.

Appeal to court

15.—(1) Any party to the proceedings before the Health Facilities Appeal Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Record to be filed in court

(2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Minister to take any action which the Board may direct him to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Minister or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1973, c. 123, s. 7, *part*.

Service of notice

16. Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date. 1973, c. 123, s. 7, *part*.

Powers of private hospitals

17. Every private hospital has power to carry on its undertaking as is authorized by any general or special Act under which it was created, established, incorporated or empowered so to do, but, where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. R.S.O. 1970, c. 361, s. 13.

Fiscal year

18. The fiscal year of every private hospital shall commence on the 1st day of January of a year and end on the 31st day of December of the same year. R.S.O. 1970, c. 361, s. 14.

Resident superintendent

19.—(1) Every private hospital shall have at all times a superintendent who may be the licensee himself, if qualified under this section, and shall be either a legally qualified

medical practitioner, a registered nurse, or a person whose qualifications are acceptable to the Minister.

Minister's approval

(2) No person other than a licensee shall be appointed as the superintendent of a private hospital until his name and qualifications have been furnished to the Minister and the Minister has approved of the appointment.

Acting superintendent

(3) During the temporary absence, illness or incapacity of the superintendent, the licensee may, without giving notice to the Minister, appoint as acting superintendent any other person qualified in accordance with this section, and every person so appointed shall, while he so acts, be deemed for the purpose of this Act to be the superintendent, but he shall not so act, whether under the same or successive appointments, for a longer continuous period than four weeks.

Offence

(4) Where at any time a private hospital is used as such while it has no duly qualified superintendent, the licensee is guilty of an offence and on conviction is liable to a fine of not more than $25 for every day during which it is so used. R.S.O. 1970, c. 361, s. 15.

Interns

R.S.O. 1980, c. 196

20. No person shall be employed as an intern in a private hospital unless he is registered under Part III of the *Health Disciplines Act*. R.S.O. 1970, c. 361, s. 16.

Register of patients

21.—(1) The licensee of every private hospital shall keep or cause to be kept a register of patients in which shall be entered,

(*a*) the name, age, sex and usual place of residence of each patient, and the date of his admission to the hospital;

(*b*) each patient's diagnosis;

(*c*) the name of the medical practitioner, if any, attending each patient;

(*d*) the date on which each patient leaves the hospital and, if transferred to another hospital, the name of the other hospital or, in the event of the death of a patient in the hospital, the date of his death; and

(*e*) such other particulars as are prescribed by the Minister.

Entry of particulars

(2) The particulars required by subsection (1) shall be entered in the register as soon as practicable after the occurrence of the act or event to which the entry relates.

Offence

(3) Every person who knowingly makes an untrue entry in a register of patients is guilty of an offence and on conviction is liable to a fine of not more than $200.

Idem

(4) Every licensee who fails to make or causes to be made any entry in the register required by subsection (1) to be made therein is guilty of an offence and on conviction is liable to a fine of not more than $50. R.S.O. 1970, c. 361, s. 17.

Construction, addition or enlargement prohibited

22.—(1) No person shall construct, add to or enlarge the patient bed capacity of any house that is or that is intended to be used as a private hospital.

Alteration or renovation

(2) No person shall alter or renovate a house that is used as a private hospital unless he has first obtained the approval in writing of the Minister for the alteration or renovation.

Minister may require material

(3) The Minister may require an applicant for an approval under subsection (2) to submit to the Minister any plans, specifications and other information related to the alteration or renovation and, subject to subsection (4), the Minister may issue his approval in writing for the alteration or renovation.

Where Minister may refuse approval or impose terms and conditions

(4) The Minister may refuse to issue an approval under subsection (2) where he considers that it is not in the public interest to issue the approval or may issue his approval subject to such terms and conditions as he considers are in the public interest.

Matters to be considered by Minister

(5) In considering whether it is in the public interest under subsection (4) to refuse to issue an approval or to issue an approval subject to terms and conditions, the Minister shall take into account,

(*a*) whether the proposed alteration or renovation will or will likely be prejudicial to the health, safety or welfare of the patients who are receiving or are likely to receive services or treatment in the private hospital; and

(*b*) whether the proposed alteration or renovation will or will likely result in a contravention of this Act or the regulations or of any other Act or regulation that applies to a private hospital or of any municipal by-law related to the proposed alteration or renovation.

Number of patients not to be increased

(6) The number of patients that is permitted by the licence issued under this Act in respect of a private hospital

shall not be increased as the result of any alteration or renovation of the house that is used as the private hospital. 1973, c. 123, s. 8.

Inspectors

23.—(1) The Minister may designate one or more officers of the Ministry to be inspectors for the purposes of this Act and the regulations.

Inspection

(2) Every private hospital and its registers and records shall at all times be open to inspection by an inspector.

Inspector may enter unlicensed premises

(3) Where an inspector believes or suspects that any house is used as a private hospital without being licensed, he may at any time and from time to time by himself enter and inspect such house and every part thereof, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 361, s. 19; 1972, c. 1, s. 1.

Use of licensed hospitals

24.—(1) A private hospital shall not be used for any purpose other than the purposes in respect of which the licence is issued and purposes incidental thereto.

Offence

(2) Where a private hospital is used in any manner contrary to subsection (1), the licensee and the superintendent are severally guilty of an offence and on conviction are each liable to a fine of not more than $25 for every day during which it is so used. R.S.O. 1970, c. 361, s. 20.

Reception of more than authorized number of patients

25. Where a private hospital is used at any time for the treatment of a greater number of patients than is permitted by the licence, except in the case of emergency, or where a patient of a class not permitted by the licence is admitted, the licensee and the superintendent are severally guilty of an offence and on conviction are each liable to a fine of not more than $25 for every day during which it is so used or the patient is so admitted. R.S.O. 1970, c. 361, s. 21.

General offence

26. Every person who contravenes any provision of this Act or the regulations, where a penalty is not otherwise provided, is guilty of an offence and on conviction is liable to a fine of not less than $25 and not more than $500. R.S.O. 1970, c. 361, s. 22.

Burden of proof in prosecutions

27.—(1) In a prosecution for an offence under this Act, the burden of proving that a person residing in a house and there receiving medical treatment is not a patient within the meaning of this Act is upon the person charged.

Idem

(2) In a prosecution for an offence under this Act, the burden of proving that a licence is in force and its terms and that a person apparently having the charge, control or management of a private hospital is not the superintendent thereof within the meaning of this Act is upon the person charged. R.S.O. 1970, c. 361, s. 23.

Municipal agreements as to indigents

28. Any municipality, with the approval of the Minister, may enter into an annual agreement with the licensee of a private hospital respecting the admission to and treatment in the private hospital of indigent persons and dependants of indigent persons who are resident in such municipality, and in such case the liability of the municipality to the private hospital shall be determined according to such agreement, and the Minister may terminate any such agreement at any time by thirty days notice in writing to the parties thereto. R.S.O. 1970, c. 361, s. 24.

Municipal right of recourse against patient

29.—(1) Upon the payment by a municipality of any account rendered to it by a private hospital for the treatment of a patient under the terms of an agreement entered into under section 28, such municipality may recover from the patient or, in the event of his death, from his estate or, in the case of a dependant, from any person liable in law for such dependant the amount of the payment so made, and such amount may be recovered as a debt in any court of competent jurisdiction.

Idem

(2) The right of a municipality under subsection (1) to recover any payment made by it to a private hospital commences the day after the patient is discharged from the hospital or dies in the hospital and does not include the right while the patient is in hospital to take any part of the pension received by the patient under the *Old Age Security Act* (Canada) or received under that Act by the person whose dependant the patient is.

R.S.C. 1970, O-6

Limitation

(3) The right of a municipality under subsection (1) to recover any payment made by it to a private hospital ceases one year after the discharge of the patient from the hospital or his death in the hospital. R.S.O. 1970, c. 361, s. 25.

Indigents from unorganized territory

30.—(1) Where a patient in a private hospital is an indigent person or a dependant of an indigent person and has resided in territory without municipal organization for a period of three months within the period of six months next prior to his admission to the private hospital, the Ministry, on certification by the regional welfare administrator, shall pay the private hospital at the rate of $6.50 for each day the patient receives treatment in the hospital.

Idem

(2) Where a private hospital receives payment under subsection (1) for an indigent person, the Minister shall pay to the private hospital an amount in respect of insured services received by the indigent person equal to the difference between the amount paid by the Ministry and the *per diem* rate established for the hospital by the Minister. R.S.O. 1970, c. 361, s. 26; 1972, c. 1, s. 1.

Custodial care

31.—(1) Where a patient in a private hospital is an indigent person or a dependant of an indigent person and is declared by the attending physician not to require continued medical and skilled nursing care in a private hospital but requires only custodial care, the municipality in which such person was resident at the time of admission is liable to the private hospital for payment of the *per diem* contract rate, established for that private hospital by the Minister, from the twenty-first day after the day on which notice that the patient is declared to require only custodial care has been sent by the superintendent of the private hospital by registered mail to the clerk of the municipality until such patient leaves the private hospital.

Payment of *per diem* contract rate

(2) A municipality that is liable to a private hospital for the payment of the *per diem* contract rate under subsection (1) shall make such payment to the private hospital at least quarterly.

Idem

(3) Where the person referred to in subsection (1) was a resident of territory without municipal organization, the Province of Ontario shall pay the *per diem* contract rate in accordance with subsection (1).

Interpretation

(4) For the purposes of this section, "indigent person" means a person who is receiving assistance from a municipality or is declared eligible by the Ministry of Community and Social Services to receive such assistance, or who has no place of abode to which he may go from the private hospital. R.S.O. 1970, c. 361, s. 27; 1972, c. 1, s. 19 (3).

Who to be deemed occupier for certain purposes R.S.O. 1980, c. 409

32.—(1) The superintendent of a private hospital shall be deemed to be the occupier of the house for the purpose of giving notice under the *Public Health Act* of any patient found or suspected to be suffering from any communicable disease.

Idem

(2) The superintendent of a private hospital shall be deemed to be the occupier thereof for the purpose of giving notice or information under the *Vital Statistics Act* of the death of any person or of the birth of any child in the hospital. R.S.O. 1970, c. 361, s. 28.

R.S.O. 1980, c. 524

Regulations

33.—(1) The Lieutenant Governor in Council may make such regulations with respect to private hospitals as are considered necessary for,

(*a*) their construction, establishment, licensing, alteration, safety, equipment, maintenance and repair;

(*b*) their classifications, grades and standards;

(*c*) their inspection, control, government, management, conduct, operation and use;

(*d*) their superintendents, staffs, officers, servants and employees and the powers and duties thereof;

(*e*) prescribing the powers and duties of inspectors;

(*f*) prescribing or restricting the type and amount of surgery, gynaecology or obstetrics that may be performed in any class of private hospital and the facilities and equipment that shall be provided for such purposes;

(*g*) the admission, treatment, care, conduct, discipline and discharge of patients, and for prohibiting the admission of any class of patients;

(*h*) the classification of patients and the rates and charges for patients;

(*i*) the records, books, accounting systems, audits, reports and returns to be made and kept;

(*j*) the establishment and operation of periodic medical audits of the work performed in private hospitals;

(*k*) prescribing the matters upon which by-laws must be passed by corporations that operate private hospitals;

(*l*) the reports and returns to be submitted to the Minister by private hospitals;

(*m*) defining words and terms used in this Act and the regulations for the purposes of this Act and the regulations;

(*n*) all matters affecting private hospitals.

Idem

(2) The Minister may from time to time declare all or any of the regulations to be in force with respect to all private hospitals or

any one or more private hospitals or classes thereof and for such time or times as the Minister considers expedient. R.S.O. 1970, c. 361, s. 29.

CHAPTER 390

Private Investigators and Security Guards Act

Interpretation

1. In this Act,

(*a*) "Commissioner" means the Commissioner of the Ontario Provincial Police Force;

(*b*) "licence" means a licence under this Act;

(*c*) "licensee" means the holder of a licence under this Act;

(*d*) "private investigator" means a person who investigates and furnishes information for hire or reward, including a person who,

(i) searches for and furnishes information as to the personal character or actions of a person, or the character or kind of business or occupation of a person,

(ii) searches for offenders against the law, or

(iii) searches for missing persons or property;

(*e*) "Registrar" means the Registrar of Private Investigators and Security Guards;

(*f*) "regulations" means the regulations made under this Act;

(*g*) "security guard" means a person who, for hire or reward, guards or patrols for the purpose of protecting persons or property. R.S.O. 1970, c. 362, s. 1.

Application of Act

2. This Act does not apply to,

(*a*) barristers or solicitors in the practice of their profession or their employees;

(*b*) persons who search for and furnish information,

(i) as to the financial credit rating of persons,

(ii) to employers as to the qualifications and suitability of their employees or prospective employees, or

(iii) as to the qualifications and suitability of applicants for insurance and indemnity bonds,

and who do not otherwise act as private investigators;

(*c*) members of the Corps of Commissionaires while acting within the objects of its incorporation;

(*d*) a person who is acting as a peace officer;

(*e*) insurance adjusters and their employees licensed under the *Insurance Act* while acting in the usual and regular scope of their employment;

R.S.O. 1980, c. 218

(*f*) insurance companies and their employees licensed under the *Insurance Act* while acting in the usual and regular scope of their employment;

(*g*) private investigators and security guards who are permanently employed by one employer in a business or undertaking other than the business of providing private investigators or security guards and whose work is confined to the affairs of that employer;

(*h*) employees of a municipality as defined in the *Municipal Affairs Act* while acting within the scope of their employment;

R.S.O. 1980, c. 303

(*i*) persons residing outside Ontario who are *bona fide* employees of private investigation or security guard agencies licensed or registered in a jurisdiction outside Ontario who,

(i) on behalf of an employer or client who resides outside Ontario, make an investigation or inquiry partly outside Ontario and partly within Ontario, and

(ii) come into Ontario solely for the purpose of such investigation or inquiry; and

(*j*) any class of persons exempted by the regulations. R.S.O. 1970, c. 362, s. 2; 1972, c. 1, s. 104 (6).

Registrar

3.—(1) There shall be a Registrar of Private Investigators and Security Guards appointed by the Lieutenant Governor in Council who may exercise the powers and shall discharge the duties vested in or imposed upon him by this Act or the regulations, under the direction of the Commissioner.

Deputy Registrars

(2) The Lieutenant Governor in Council may appoint a Deputy Registrar of Private Investigators and Security Guards who shall act as Registrar during the absence of the Registrar or his inability to act. R.S.O. 1970, c. 362, s. 3.

Licences

4.—(1) No person shall,

(*a*) engage in the business of providing private investigators or security guards;

(*b*) operate a branch office or place at which the public is invited to deal in the conduct of the business of providing private investigators or security guards; or

(*c*) act as a private investigator or security guard,

unless he is the holder of a licence therefor.

Holding out

(2) No person shall hold himself out as acting as a private investigator or a security guard or as being engaged in the business of providing private investigators or security guards unless he is licensed under this Act. R.S.O. 1970, c. 362, s. 4.

Application for licence

5.—(1) Every applicant for a licence to engage in the business of providing private investigators or security guards shall apply to the Registrar for the licence and the licences for each branch office and each employee who is a private investigator or security guard, if any, upon the prescribed form which shall be accompanied by the prescribed fees and a bond in the prescribed amount and form.

Type of bond

(2) The bond shall be,

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or R.S.O. 1980, c. 192

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security.

Collateral security

(3) The collateral security shall be negotiable securities of the classes prescribed by the regulations, not less in value

than the sum secured by the bond, and shall be deposited with the Treasurer of Ontario.

Employer to ensure employees licensed

(4) No person engaged in the business of providing private investigators or security guards shall employ as a private investigator or security guard a person who is not the holder of a licence. R.S.O. 1970, c. 362, s. 5.

Address for service

6.—(1) Every applicant for a licence shall state in the application an address for service in Ontario, and all notices under this Act or the regulations are sufficiently given or served for all purposes if sent by registered mail or delivered to the latest address for service so stated.

Notice of changes in business

(2) Every person licensed to engage in the business of providing private investigators or security guards shall within five days notify the Registrar in writing of,

(*a*) any change in his address for service or in the address of any place at which he carries on business or at which he invites the public to deal;

(*b*) any change in the officers or members in the case of an association of individuals, partnership or corporation; and

(*c*) any termination of employment of a private investigator or security guard. R.S.O. 1970, c. 362, s. 6.

Investigation of applicant

7.—(1) The Registrar or any person authorized by him may make such inquiry and investigation as he considers sufficient regarding the character, financial position and competence of an applicant or licensee and may require an applicant to try such examinations to determine competence as the Registrar considers necessary.

Further information

(2) The Registrar may require further information or material to be submitted by an applicant or a licensee and may require verification by affidavit or otherwise of any information or material then or previously submitted. R.S.O. 1970, c. 362, s. 7.

Issuance of licence

8.—(1) The Registrar shall issue a licence or renewal of a licence where in the opinion of the Registrar the proposed licensing is not against the public interest, and the licence may be subject to terms and conditions.

Hearings

(2) The Registrar shall not refuse to grant or refuse to renew a licence without giving the applicant an opportunity to be heard. R.S.O. 1970, c. 362, s. 8.

Temporary licence

9.—(1) Where a person applies for a licence to act as a private investigator or security guard, the Registrar may, pending his decision, issue a temporary licence to so act for a period stated in the licence but not exceeding three months.

Idem

(2) Where a person who is licensed to engaged in the business of providing private investigators or security guards dies, the Registrar may grant to his executor or administrator a temporary licence, and all licensed employees of a deceased licensee at the time of his death shall be deemed to be licensed as employees of such executor or administrator.

Termination of temporary licences

(3) Every temporary licence terminates in accordance with the regulations. R.S.O. 1970, c. 362, s. 9.

Transfers

10. A licence is not transferable. R.S.O. 1970, c. 362, s. 10.

Expiry of licences

11.—(1) Every licence and renewal of licence, other than a temporary licence, expires on the 31st day of March in each year.

Renewals

(2) Every applicant for renewal of a licence to engage in the business of providing private investigators or security guards shall, on or before the 1st day of March in each year, apply to the Registrar for the renewal of the licence and the renewal of the licences for each branch office and each employee who is a private investigator or security guard, if any, upon the prescribed form which shall be accompanied by the prescribed fees. R.S.O. 1970, c. 362, s. 11.

Displaying licence

12. Immediately upon the receipt of a licence to engage in the business of providing private investigators or security guards, the licensee shall cause it to be displayed in a conspicuous place in the office or branch office of the business for which it is issued. R.S.O. 1970, c. 362, s. 12.

Cancellation of licence on termination of employment

13.—(1) The licence of a private investigator or security guard is cancelled upon the termination of the employment in respect of which it was issued.

Idem

(2) When a licensed private investigator or security guard ceases to be employed as such, he shall give his licence and identification card immediately to his employer who shall forward them to the Registrar.

Surrender of licences and identification cards

(3) Every person who is licensed to engage in the business of providing private investigators or security guards shall immediately upon the termination of such business forward

to the Registrar his licence and identification card together with the licences and identification cards of his employees. R.S.O. 1970, c. 362, s. 13.

Suspension and cancellation

14. The Registrar may, after giving the licensee an opportunity to be heard, suspend or cancel a licence where,

(*a*) the licensee is convicted of an offence under the *Criminal Code* (Canada) or under this Act or the regulations; R.S.C. 1972, c. C-34

(*b*) the licensee is in breach of a term or condition of the licence; or

(*c*) in the opinion of the Registrar, to do so is in the public interest. R.S.O. 1970, c. 362, s. 14.

Reasons

15. Where the Registrar refuses to grant a licence or renewal of a licence, or suspends or cancels a licence, he shall, upon the request of the person whose licence or right to a licence is affected, give written reasons for his decision. R.S.O. 1970, c. 362, s. 15.

Further application

16. A further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 362, s. 16.

Complaints

17.—(1) Where the Registrar receives a complaint in respect of the carrying on of the business of providing private investigators or security guards and so requests in writing, the person carrying on the business shall furnish the Registrar with such information respecting the matter complained of as the Registrar may require.

Inspection of records

(2) For the purposes of subsection (1), the Registrar or any person designated in writing by him may at any time make an inspection of the books, documents and records of any licensee.

Access

(3) Upon an inspection under subsection (2), the person inspecting is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the licensee, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 362, s. 17.

Information confidential

18. Any information received by the Registrar or the Commissioner in connection with an application or a record or return required under this Act or in the course of an

inquiry or investigation authorized by this Act shall not be disclosed without the consent of the Commissioner. R.S.O. 1970, c. 362, s. 18.

Notice of direction, decision, etc.

19.—(1) The Registrar shall serve upon any person, who in the opinion of the Registrar is affected thereby, a notice of every direction, decision, order or ruling of the Registrar.

Service

(2) Where a service under subsection (1) is made upon a person who is not a licensee, the service may be made by sending the notice by registered mail to the last-known address of the person to be served. R.S.O. 1970, c. 362, s. 19.

Review

20.—(1) Any person whose licence or right to a licence is affected by a decision of the Registrar may, by notice in writing served upon the Registrar within thirty days after the delivery of the notice under section 19, request a hearing and review of the matter by the Commissioner.

Notice of hearing

(2) Where a hearing and review are requested, the Commissioner shall serve notice upon the person who requested the review notifying him of the time and place of the hearing which shall be within thirty days of the serving of the notice under subsection (1), except with the consent of the person who requested the review.

Evidence

(3) Upon a review, the Commissioner shall hear such evidence as is submitted to him that in his opinion is relevant to the matter in dispute, and all oral evidence submitted shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by him, forms the record.

Evidence on review

(4) Upon a review, the Commissioner may,

(*a*) administer oaths to witnesses and require them to give evidence under oath; and

(*b*) require to have issued out of the Supreme Court a writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum* which the court shall issue, but no person shall be compelled under any such writ to produce any document that he would not be compellable to produce on the trial of an action.

Decision of Commissioner

(5) Upon a review, the Commissioner may by his order direct the Registrar to make such decision as the Registrar is authorized to make under this Act and as the Commissioner considers proper and for this purpose the Commissioner may substitute his opinion for that of the Registrar.

Notice of decision and reasons

(6) Notice of the decision of the Commissoner made upon a review shall be served forthwith upon the person who requested the review.

Reasons

(7) Upon the request of the person who requested a review, the Commissioner shall give written reasons for his decision made upon the review. R.S.O. 1970, c. 362, s. 20.

Appeal

21.—(1) Where the Commissioner has reviewed a decision and given his decision upon the review, the person who requested the review may appeal from the decision to the Divisional Court in accordance with the rules of court.

Form of appeal

(2) Every appeal shall be by notice of motion served upon the Commissioner within thirty days after the delivery of the notice of decision under subsection 20 (6).

Material on appeal

(3) The Commissioner shall certify to the Registrar of the Supreme Court,

(*a*) the decision that has been reviewed by him;

(*b*) his decision upon the review, together with his reasons therefor;

(*c*) the record of the review; and

(*d*) all written submissions to him and other material received by him in connection with the review. R.S.O. 1970, c. 362, s. 21 (1-3).

Counsel

(4) The Solicitor General may designate counsel to assist the court upon the hearing of an appeal under this section. R.S.O. 1970, c. 362, s. 21 (4); 1972, c. 1, s. 98 (1).

Decision of court

(5) Upon an appeal, the court may by its order direct the Registrar to make such decision as the Registrar is authorized to make under this Act and as the court considers proper, and for this purpose the court may substitute its opinion for that of the Registrar and the Commissioner.

Appeal final

(6) The order of the court is final, but a further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 362, s. 21 (5, 6).

Right to counsel

22. Every person whose licence or right to a licence may be affected by a hearing under this Act is entitled to be represented by counsel at the hearing. R.S.O. 1970, c. 362, s. 22.

Use of expression "private detective" prohibited

23.—(1) No person engaged in any business or employment, whether licensed under this Act or otherwise, shall use the expression "private detective" in connection with such business or employment or hold himself out in any manner as a private detective.

Name of business

(2) No person shall engage in the business of providing private investigators or security guards in a name other than that in which he is licensed. R.S.O. 1970, c. 362, s. 23.

Information to be confidential

24. No person shall divulge to anyone, except as is legally authorized or required, any information acquired by him as a private investigator. R.S.O. 1970, c. 362, s. 24.

Means of identification

25.—(1) No person acting as a private investigator shall have in his possession or display any badge, shield, card or other identification or evidence of authority except,

(*a*) the prescribed identification card issued under this Act; and

(*b*) a business card containing no reference to licensing under this Act.

Identification card to be carried

(2) Every private investigator shall, while investigating, carry on his person the prescribed identification card issued to him under this Act and shall produce it for inspection at the request of any person.

Use of uniform

(3) No private investigator who is also licensed as a security guard shall act as a private investigator while in uniform. R.S.O. 1970, c. 362, s. 25.

Age limit

26. No person shall act as a private investigator unless he is twenty-one years of age or over and no person shall act as a security guard unless he is eighteen years of age or over. R.S.O. 1970, c. 362, s. 26.

Uniforms

27. Every security guard shall wear a uniform while acting as a security guard. R.S.O. 1970, c. 362, s. 27.

Identification card

28.—(1) Every security guard while on duty shall carry on his person the prescribed identification card issued to him

under this Act and shall produce it for inspection at the request of any person.

Evidence of authority

(2) No security guard while on duty shall have in his possession or display any evidence of authority except his uniform and the prescribed identification card issued under this Act. R.S.O. 1970, c. 362, s. 28.

Licensees not to be collectors or bailiffs

29. No licensee shall act as a collector of accounts or bailiff, or undertake, or hold himself out, or advertise as undertaking, to collect accounts or act as a bailiff for any person either with or without remuneration. R.S.O. 1970, c. 362, s. 29.

Holding out as police

30. No licensee shall hold himself out in any manner as performing or providing services or duties connected with police. R.S.O. 1970, c. 362, s. 30.

Advertising

31. Where, in the opinion of the Registrar, any person licensed under this Act is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material. R.S.O. 1970, c. 362, s. 31.

Offences

32.—(1) Every person who,

(*a*) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act or the regulations; or

(*c*) contravenes any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed is $25,000 and not as provided therein. R.S.O. 1970, c. 362, s. 32 (1, 2).

Consent of Solicitor General

(3) No proceedings under this section shall be instituted except with the consent of the Solicitor General. R.S.O. 1970, c. 362, s. 32 (3); 1972, c. 1, s. 98 (2).

Limitation

(4) No proceedings under this section shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commissioner. R.S.O. 1970, c. 362, s. 32 (4).

Certificate as evidence

33. A statement as to,

(*a*) the licensing or non-licensing of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Commissioner; or

(*d*) any other matter pertaining to such licensing, non-licensing, filing or non-filing or to any such person, document or material,

purporting to be certified by the Commissioner is, without proof of the office or signature of the Commissioner, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 362, s. 33.

Regulations

34. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the classes of persons who shall be exempt from this Act or from any provision thereof, in addition to those classes of persons mentioned in section 2;

(*b*) prescribing forms and providing for their use;

(*c*) requiring the payment of fees in connection with the issuance or renewal of licences and prescribing the amounts thereof;

(*d*) governing the procedure for the issuance of licences and renewals and prescribing the terms and conditions thereof;

(*e*) prescribing the amount and form of bonds to be furnished under this Act, the classes of securities that are acceptable as collateral security, the conditions of forfeiture of bonds, the conditions upon which bonds may be cancelled, the period that bonds shall subsist, and respecting all matters subsequent to forfeiture;

(*f*) prescribing the form and contents of identification cards for licensees and providing for the issuance thereof;

(*g*) requiring the keeping of such books and records and the furnishing of such information and returns by licensees as are prescribed;

(*h*) governing the uniforms, badges and insignia that shall be worn by security guards;

(*i*) governing contracts entered into by persons engaged in the business of providing private investigators or security guards with persons who engage their services;

(*j*) governing the method of terminating the business of providing private investigators or security guards;

(*k*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 362, s. 34.

CHAPTER 391

Private Sanitaria Act

Interpretation

1. In this Act,

(*a*) "board" means the board of visitors;

(*b*) "habitue" means an alcoholic or drug habitue;

(*c*) "intoxicating liquor" has the same meaning as "liquor" in the *Liquor Licence Act*; R.S.O. 1980, c. 244

(*d*) "medical practitioner" means a legally qualified medical practitioner;

(*e*) "Minister" means the member of the Executive Council charged for the time being with the administration of this Act;

(*f*) "proprietor" means a person or corporation to whom a licence is granted under this Act, or a person or corporation keeping, owning or having any interest or exercising any duties or powers of a proprietor in a sanitarium;

(*g*) "sanitarium" means an institution for the care and treatment of mental and nervous illnesses that is licensed under this Act. R.S.O. 1970, c. 363, s. 1.

Notice of application for licence

2.—(1) When the proprietor of a sanitarium desires to obtain a licence for it under this Act, he shall give notice thereof to the Minister.

Contents of notice

(2) The notice shall contain the full name, place of residence and occupation of the proprietor, unless the proprietor is a corporation, when the name and chief place of business of the corporation shall be given, and a true and full description of the proprietor's estate or interest in the premises sought to be licensed, and, if the proprietor does not propose to reside himself in the licensed premises, the notice shall contain the full name, place of residence and occupation of the superintendent who is to reside therein. R.S.O. 1970, c. 363, s. 2 (1, 2).

Plan of the house, etc.

(3) The notice shall be accompanied by a plan of the premises, drawn upon a scale of not less than three millimetres to thirty centimetres, with a statement showing,

(*a*) the situation thereof;

(*b*) the length, breadth and height of, and a reference by a figure or letter to, every room and apartment therein;

(*c*) the quantity of land not covered by any building and appropriated to the exclusive use, exercise and recreation of the patients proposed to be received;

(*d*) the number of patients proposed to be received into the institution, and whether the licence applied for is for the reception of male or female patients, or of both, and, if for the reception of both, the number of each sex proposed to be received and the means by which the one sex will be kept separate and apart from the other;

(*e*) the sanitary arrangements, ventilation, heating and water supply, and the fire escapes and the facilities provided for use in case of fire and the means for preventing fires. R.S.O. 1970, c. 363, s. 2 (3); 1978, c. 87, s. 19.

Licence to proprietors

(4) The Lieutenant Governor in Council may issue a licence to the proprietor to keep and maintain the same for the purposes of a sanitarium and such licence continues in force until revoked by the Lieutenant Governor in Council.

Conditions, etc., of licence

(5) Any such licence may be issued subject to such conditions, qualifications or restrictions as the Lieutenant Governor in Council considers advisable.

Further restrictions on licensees

(6) Without limiting the generality of subsection 5, any such licence may be issued subject to restrictions respecting the class or sex of patients who may be admitted and the type of treatment that may be given to patients.

Security by licensee

(7) No such licence shall be issued unless the proprietor gives security to Her Majesty in the sum of $1,000 under the usual conditions for his good behaviour during the time the licence continues in force. R.S.O. 1970, c. 363, s. 2 (4-7).

Board of visitors

3.—(1) Every sanitarium shall be under the supervision and inspection of a board of visitors composed of the senior judge or, in the case of his absence or disqualification, a judge of the county or district court, the clerk of the peace and the sheriff of the

county or district in which the sanitarium is situate, together with two medical practitioners appointed by the Lieutenant Governor in Council who shall hold office for three years unless sooner removed by him.

Chairman and secretary

(2) The judge is the chairman and the clerk of the peace is the secretary of the board.

Allowance to members

(3) The members of the board shall be paid by the proprietor such allowance for their services as the Lieutenant Governor in Council may direct.

Visitors not to have a pecuniary interest in any sanitarium

(4) No member of the board shall be pecuniarily interested in any sanitarium, either directly or indirectly, and any member who after his appointment becomes interested in any sanitarium either as proprietor or part owner, or by the sale of merchandise to such a sanitarium or in any other way, thereupon becomes disqualified from acting and shall not thereafter act in such capacity.

Appointment in case of disqualification

(5) If a member of the board is or becomes so disqualified, the Lieutenant Governor in Council may appoint some one to act in his stead.

Oath of visitors

(6) Every member of the board shall, before acting, take and subscribe the following oath:

> "I, *A.B.*, do swear that I will discreetly, impartially and faithfully execute all the trusts and powers committed to me by virtue of the *Private Sanitaria Act*, and that I will keep secret all such matters as come to my knowledge in the execution of my office, except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of the duty imposed upon me by the said Act. So help me God."

Oath to be filed

(7) The oath shall be filed in the office of the clerk of the peace.

Meeting of board

(8) The secretary shall summon the board to meet for the purpose of executing its duties under this Act.

Meetings to be private

(9) Every such summons and meeting shall be made and held as privately as possible and in such manner that no proprietor, superintendent or person interested in or employed about or connected with the sanitarium to be visited shall know of the intended visitation.

Assistant secretary

(10) If the secretary at any time desires to employ an assistant in the execution of his duties, he shall certify such desire and the name of the proposed assistant to the chair-

man of the board, and, if such assistant is approved of, the chairman shall administer the following oath to such assistant:

> "I, *A.B.*, do swear that I will faithfully keep secret all such matters and things as come to my knowledge in consequence of my employment as assistant to the secretary of the Board of Visitors, appointed for the county or district of ..... by virtue of the *Private Sanitaria Act*, unless required to divulge the same by legal authority. So help me God."

At whose cost

(11) The secretary may thereafter, at his own cost, employ such assistant. R.S.O. 1970, c. 363, s. 3.

Restrictions upon physicians who are visitors

4.—(1) No medical practitioner who is a member of the board shall sign a certificate for the admission of a patient into a sanitarium or shall professionally attend upon a patient therein unless he is directed to visit the patient by the person upon whose order the patient was received into the sanitarium, or by the Minister or by one of the judges of the Supreme Court, or by some person appointed by one of such judges for that purpose.

Offence

(2) For every contravention of subsection (1), the medical practitioner is guilty of an offence and, on conviction, is liable to a fine of $200. R.S.O. 1970, c. 363, s. 4.

Removal of superintendent

5. A proprietor may remove the superintendent named in the notice, and may at any time appoint another superintendent upon giving to the board a notice containing the full name, place of residence and occupation of the new superintendent. R.S.O. 1970, c. 363, s. 5.

Fee

6.—(1) For every licence there shall be paid to the clerk of the peace for the county or district in which the sanitarium is located, for every patient proposed to be received therein, the sum of $5, and, if the total amount so payable does not amount to $200, so much more as together therewith will make up the sum of $200, and no such licence shall be delivered until the sum payable therefor has been paid.

Application of fees

(2) All moneys received for licences under this Act shall be applied towards the payment of the allowance to the secretary for his services and the discharge of the costs, charges and expenses incurred by or under the authority of the board in the execution of or by virtue of this Act. R.S.O. 1970, c. 363, s. 6.

Clerk of the peace to keep account of moneys

7. The clerk of the peace shall keep an account of all money received and paid by him under this Act, and such accounts shall be made up to the last day of December in

each year inclusively, and shall be signed by at least two of the members of the board and forwarded to the Minister. R.S.O. 1970, c. 363, s. 7.

To what premises licence may extend

8. No one licence shall include or extend to more than one sanitarium, but if there is any place or building detached from the sanitarium, but not separated from it by ground belonging to any other person, and if such place or building is specified, delineated and described in the prescribed notice, plan and statement in the same manner in all particulars as if it had formed part of the sanitarium, then such detached place or building, if the Lieutenant Governor in Council thinks fit, may be included in the licence for the sanitarium, and if so included shall be considered part of the sanitarium for the purposes of this Act. R.S.O. 1970, c. 363, s. 8.

Alterations in sanitarium

9. No addition or alteration shall be made to, in or about a sanitarium or its appurtenances unless the approval of the Lieutenant Governor in Council has been previously obtained. R.S.O. 1970, c. 363, s. 9.

When licence transferable

10. If a proprietor becomes incapable of keeping the sanitarium or dies before the expiration of the licence, the Lieutenant Governor in Council may authorize the transfer of the licence, for the term then unexpired, to the person who at the time of such incapacity or death was the superintendent of the sanitarium or had the care of the patients therein, or to such other person as the Lieutenant Governor in Council approves, and in the meantime the licence remains in force and has the same effect as if granted to the superintendent. R.S.O. 1970, c. 363, s. 10.

Survivorship

11. If a licence has been granted to two or more persons and one or more of such persons dies leaving the other or others surviving, the licence remains in force and has the same effect as if granted to the survivor or survivors. R.S.O. 1970, c. 363, s. 11.

Removal to other premises

12.—(1) If a sanitarium is razed or becomes unfit for the accommodation of patients, or if the proprietor desires to transfer the patients to another building, the Lieutenant Governor in Council may grant him a licence to keep such other building for the reception of patients for such time as the Lieutenant Governor in Council thinks fit, but the like notice of such intended change and the like plans and statements of and as to such other building shall be given as are required when application is first made for a licence for a sanitarium, and shall be accompanied by a statement in writing of the cause of the change.

Fee for licence for transfer

(2) A fee of $25 is payable by the licensee to the clerk of the peace upon the issue of the licence.

Notice of intended removal

(3) Except where the change is occasioned by fire or tempest, seven clear days previous notice of the intended removal shall be sent by the proprietor to the person who signed the requisition for the reception of each patient or the person by whom the last payment on account of each patient was made. R.S.O. 1970, c. 363, s. 12.

Admission on requisition and certificates

13.—(1) The superintendent of a sanitarium may admit to and, subject to section 36, may detain in it any person who is mentally ill or mentally defective upon a requisition in Form 1 and the certificates in Form 2 of two medical practitioners.

Contents of certificate

(2) Every certificate shall state and show clearly that the medical practitioner signing it personally examined the patient separately from any other medical practitioner and, after due inquiry into all the necessary facts relating to the case of the patient, found him to be mentally ill or mentally defective and a proper person to be confined in a sanitarium.

Idem

(3) Each medical practitioner shall also in such certificate state the facts upon which he has formed his opinion of the mental illness or mental deficiency, distinguishing the facts observed by him from the facts communicated to him by others, and every such certificate shall be signed in the presence of one subscribing witness who shall not be a physician issuing a certificate, and shall show the date upon which the examination was made.

Limitation on admission

(4) No person shall be admitted as a patient under this section except within fifteen days of the examination referred to in any certificate. R.S.O. 1970, c. 363, s. 13.

Persons resident outside Ontario

14. The superintendent of a sanitarium may admit to and, subject to section 36, may detain in it any person resident outside Ontario who is certified to be mentally ill or mentally defective by two medical practitioners of the place outside Ontario in which such person resides, if certificates are made with necessary modifications according to Form 2, but any person so admitted and detained in a sanitarium shall, within fifteen days of admission, be examined by one medical practitioner of Ontario who shall certify according to Form 2. R.S.O. 1970, c. 363, s. 14.

Effect of requisition and certificates

15. The requisition and certificates referred to in section 13 or the certificates referred to in section 14 are sufficient authority,

(*a*) to any person to convey the patient to the sanitarium; or

(*b*) to the superintendent thereof to receive him and, subject to section 36, to detain him therein as long as he continues to be mentally ill or mentally defective; or

(*c*) to the superintendent of any psychiatric facility under the *Mental Health Act* to which the patient may afterwards be transferred to receive such patient in such institution and to detain him therein as long as he continues to be mentally ill or mentally defective. R.S.O. 1970, c. 363, s. 15. R.S.O. 1980, c. 262

Epileptics

16. The provisions of this Act relating to mentally ill persons apply with necessary modifications to persons who are epileptic. R.S.O. 1970, c. 363, s. 16.

Restrictions upon unlicensed premises

17. Subject to the provisions and exceptions hereinafter contained, no person shall receive to board and lodge in any premises not licensed under this Act or take the charge or care of more than two mentally ill or mentally defective persons at the same time. R.S.O. 1970, c. 363, s. 17.

When physician not to certify

18.—(1) No medical practitioner who, or whose father, brother, son or partner, is wholly or partly the proprietor of or a regular professional attendant in a sanitarium shall sign any certificate for the reception therein of a patient, and no medical practitioner who, or whose father, brother, son or partner, signs the prescribed requisition for the reception of a patient shall sign any certificate for the reception of the same patient.

Idem

(2) No medical practitioner whose partner, brother, father or son issues a certificate for the reception of a patient into a sanitarium shall sign a certificate for the reception of the same patient. R.S.O. 1970, c. 363, s. 18.

Penalty for giving false certificate maliciously

19.—(1) Any medical practitioner who maliciously or corruptly signs a false certificate for the purpose of procuring the confinement of any person who is not mentally ill or mentally defective in a sanitarium shall, upon judgment being given against him in an action for damages on account of such malicious or corrupt act, *ipso facto* be incapacitated from practising in Ontario for the period of five years thereafter.

Removal from register

(2) The name of such medical practitioner shall, upon production of a certified copy of the judgment to the

registrar of the College of Physicians and Surgeons of Ontario, be removed from the register. R.S.O. 1970, c. 363, s. 19.

Admission of voluntary patient

20.—(1) The superintendent of a sanitarium may receive and detain therein as a patient any person suitable for care and treatment who voluntarily makes written application in Form 3 accompanied by the certificate in Form 3 of one medical practitioner certifying that the person is suffering from a form of mental illness that requires treatment in a sanitarium, and that he is capable of appreciating the fact that he is to be admitted as a voluntary patient.

Idem

(2) Subsection (1) shall be deemed to have been complied with if the certificate mentioned therein is completed within twelve hours after the admission of the patient to the sanitarium.

Discharge

(3) No person so admitted shall be detained more than three days after he has given notice in writing to the superintendent of his desire to leave the sanitarium.

Notice of admission to board

(4) The superintendent shall give immediate notice of the reception of such person to the secretary of the board, stating all the particulars of the case, and one or more members of the board or the secretary shall forthwith visit the patient in order to verify the fact of his having been admitted voluntarily, and all the facts in connection with the case shall be forthwith recorded in the visitors' book by the person making the inquiry. R.S.O. 1970, c. 363, s. 20.

Register of patients

21.—(1) Every proprietor or superintendent who receives a patient into a sanitarium shall, within two days after his reception, make an entry with respect to him in a book to be kept for that purpose, called the "Register of Patients", according to the form and containing the particulars mentioned in Form 4, so far as he can ascertain the same, and, when a patient is discharged or dies, an entry of the fact shall be made in the appropriate column.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than $10. R.S.O. 1970, c. 363, s. 21.

Record of mental disorder

22. The form of the mental disorder, if any, of every patient received into a sanitarium shall, within seven days after his reception, be entered in the clinical record by the medical attendant, and every medical attendant who omits

to make such an entry is guilty of an offence and on conviction is liable to a fine of not more than $10. R.S.O. 1970, c. 363, s. 22.

Copy of order for visitors

23. The proprietor or superintendent of a sanitarium shall, after two clear days and before the expiration of seven clear days from the day on which a patient has been received into the sanitarium, transmit to the secretary of the board a copy of the requisition and medical certificates or certificate on which the patient was received, and also a notice and statement according to Form 5. R.S.O. 1970, c. 363, s. 23.

Escapes

24.—(1) Where a patient has escaped from a sanitarium, the proprietor or superintendent shall, within two clear days next after the escape, transmit written notice thereof to the secretary of the board.

Contents of notice

(2) The notice shall state the full name of the patient, and his then state of mind, and the circumstances of the escape.

Capture

(3) The patient may be retaken at any time within one month after his escape and brought back to and detained in the sanitarium.

Notice of capture

(4) If the patient is brought back, the proprietor or superintendent shall within two clear days thereafter transmit written notice thereof to the secretary of the board.

Contents

(5) The notice shall state when the patient was so brought back and under what circumstances, and whether with or without a fresh requisition and certificate.

Offence

(6) Every proprietor or superintendent who omits to transmit such a notice, whether of escape or of return, is guilty of an offence and on conviction is liable to a fine of not more than $50. R.S.O. 1970, c. 363, s. 24.

Entry of removal, discharge, etc.

25. Where a patient is removed or discharged from a sanitarium or dies therein, the proprietor or superintendent shall, within two clear days next after the removal, discharge or death, make an entry thereof in a book to be kept for that purpose in Form 6 and stating the particulars in Form 6, and shall also within the same period transmit written notice thereof in Form 7 and also of the cause of the removal, discharge or death, if known, to the secretary of the board. R.S.O. 1970, c. 363, s. 25.

Certificate required in case of death

26.—(1) Where a patient dies in a sanitarium, a statement of the cause of death, with the name of any person present at the death, shall be forthwith drawn up and signed by the superintendent of the sanitarium, and a copy thereof duly certified by the proprietor or superintendent shall, within forty-eight hours after the death of the patient, be transmitted by him to the secretary of the board and to the person who signed the requisition for the patient's admission or, if he is dead or absent from Ontario, to the person who made the last payment on account of the patient.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 363, s. 26.

Furnishing copy of certificates and requisition

27. Where a person discharged from a sanitarium considers himself to have been unjustly detained therein, the secretary of the board shall, at his request, furnish to him or to his solicitor, without fee or reward, a copy of the certificates and requisition upon which he was admitted or detained. R.S.O. 1970, c. 363, s. 27.

Medical staff

28.—(1) In every sanitarium licensed for 100 patients or more there shall be a resident medical practitioner as superintendent or medical attendant thereof and one medical practitioner for each thirty patients over the first thirty in residence, and in every such sanitarium licensed for fewer than one hundred and more than fifty patients there shall be one medical practitioner for each thirty patients in residence, and every sanitarium licensed for fewer than fifty patients, if it is not kept by or has not a resident medical practitioner, shall be visited by one twice in every week, but the board may direct that such last-mentioned sanitarium be visited by a medical practitioner at any other time or times not oftener than once in every day.

Where fewer than 11 patients

(2) Where a sanitarium is licensed to receive fewer than eleven patients, any two members of the board may, by writing under their hands, permit the sanitarium to be visited by a medical practitioner at intervals greater than twice every week as they appoint, but not at a greater interval than once in every two weeks. R.S.O. 1970, c. 363, s. 28.

The Clinical Record

29.—(1) There shall be kept in every sanitarium a record called "The Clinical Record" in which the medical practitioner keeping or residing in or visiting the sanitarium shall make or cause to be made entries at least every week of the mental state and bodily condition of each patient and a correct statement of the treatment pursued.

(2) The board may, whenever they see fit, by an order in writing, require the superintendent to transmit to them a correct copy of the entries or entry in the clinical record relative to the case of any patient who is or has been detained in the sanitarium. Duty to furnish copies

(3) Every person who contravenes any of the provisions of this section is guilty of an offence and on conviction is liable to a fine of not more than $40. R.S.O. 1970, c. 363, s. 29. Offence

30. Every sanitarium shall be visited and inspected by at least two of the members of the board, one of whom is a medical practitioner, at least four times in every year. R.S.O. 1970, c. 363, s. 30. Inspection and visitation

31.—(1) The visitors, when visiting a sanitarium, shall inspect every part of it and every house, outhouse, place and building communicating with it or detached from it, but not separated by ground belonging to another person, and every part of the ground and appurtenances held, used or occupied therewith, and shall see every patient then detained therein, and shall inquire whether any patient is under restraint and why, and shall inspect the order and certificates or certificate for the reception and detention of every patient who has been received into the sanitarium since the last visit, and shall enter in the visitors' book a minute as to, Duties of visitors in making visits

(*a*) the then condition of the sanitarium, its furniture, furnishings and surroundings;

(*b*) the appearance of the patients, particularly noting if there are any marks of violence;

(*c*) the condition of the beds and bedding;

(*d*) whether the dietary is suitable and the food service satisfactory;

(*e*) whether the staff is sufficient;

(*f*) the number of patients under restraint or in seclusion with the reasons stated therefor;

(*g*) any irregularity in the order or certificate;

(*h*) whether the previous suggestions, if any, of the visitors have been attended to; and

(*i*) any matter as to which they or he consider it proper to make observations.

Duties of proprietor or superintendent

(2) The proprietor or superintendent shall show to the visitors every part of the sanitarium and every person detained therein as a patient.

Inquiries to be made by the visitors

(3) The visitors shall inquire,

(*a*) whether divine service is held therein, for what number of patients, and the effect thereof;

(*b*) what occupations or amusements are provided for the patients, and the result thereof;

(*c*) whether there has been adopted any system of non-restraint, and if so the result thereof;

(*d*) as to the classification of patients;

(*e*) whether there is any patient who should be discharged;

(*f*) whether the building, its furniture and furnishings are suitable;

(*g*) whether the nurses engaged in caring for the patients are properly trained for the work in which they are engaged, and how many trained graduate nurses are employed; and

(*h*) as to any matter as to which it is proper to inquire in order to ascertain whether the sanitarium is properly conducted.

What information to be laid before the visitors

(4) Upon every visit, there shall be laid before the visitors by the proprietor or superintendent,

(*a*) a list of all the patients then in the sanitarium, distinguishing males from females, and specifying such as are considered curable;

(*b*) the books and records required to be kept by the proprietor or superintendent and by a medical attendant;

(*c*) all requisitions and certificates relating to patients admitted since the last visit;

(*d*) the licence then in force;

(*e*) all such requisitions, certificates, documents and papers relating to any of the patients at any time

received into the sanitarium as the visitors from time to time require to be produced. R.S.O. 1970, c. 363, s. 31.

Plan and "Visitors' Book" to be kept

32. There shall be hung up in some conspicuous part of a sanitarium a copy of the plan that accompanied the application for a licence, and there shall be kept in every such sanitarium a copy of this Act, bound in a book called "The Visitors' Book". R.S.O. 1970, c. 363, s. 32.

Copies of certain entries

33.—(1) The proprietor or superintendent of a sanitarium shall, within three days after every visit by the visitors, transmit to the secretary of the board a true copy of the entries made by them in The Visitors' Book.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than $40. R.S.O. 1970, c. 363, s. 33.

Visits

34. Any two or more members of the board may visit and inspect a sanitarium in their jurisdiction at any hour of the day or night. R.S.O. 1970, c. 363, s. 34.

Appointment of commissioner to conduct inquiry

35. The Lieutenant Governor in Council may appoint one or more persons a commissioner or commissioners to conduct an inquiry into the operation of this Act, the operation, management and affairs, financial or otherwise, of any sanitarium, any matter concerning the committal, treatment or detention of any person to or in any sanitarium, any charge or complaint that any person has contravened any provision of this Act or the regulations, or has made any false statement in any return, statement, notice, certificate or other form required to be made or kept by this Act or the regulations, and any other matter relating to the administration of this Act, and such commissioner or commissioners have the same power to enforce the attendance of witnesses, and to compel them to give evidence and produce documents and things, as is vested in any court in civil cases. R.S.O. 1970, c. 363, s. 35.

Discharge of patients

36.—(1) Subject to subsection (3), where the person who signed the requisition on which a patient was received into a sanitarium, by writing under his hand, directs the patient to be removed or discharged, the patient shall forthwith be removed or discharged accordingly.

Disability of person who signed the requisition for admission

(2) Subject to subsection (3), if the person who signed the requisition is incapable of giving an order for the discharge or removal of the patient or, if he is absent from Ontario or is dead, the husband or wife of the patient or, if there

is no husband or wife, the father of the patient or, if there is no father, the mother of the patient or, if there is no mother, then any one of the nearest of kin for the time being of the patient, or the person who made the last payment on account of the patient, may, by writing under his or her hand, give such direction for the discharge or removal of the patient and thereupon the patient shall forthwith be discharged or removed accordingly.

What to be done if the physician in charge objects

(3) No patient shall be discharged or removed if the superintendent or attending medical practitioner, by writing under his hand, certifies that in his opinion the patient is mentally ill or mentally defective, together with the grounds on which such opinion is founded. R.S.O. 1970, c. 363, s. 36.

Transfer to another sanitarium or other institution

R.S.O. 1980, c. 262

37. Nothing in this Act prevents a patient from being transferred from one sanitarium to another or to a psychiatric facility under the *Mental Health Act*, but in such case the patient shall, for the purpose of such removal, be placed under the control of an attendant belonging to the sanitarium to or from which he is about to be removed, and shall remain under such control until the removal has been effected. R.S.O. 1970, c. 363, s. 37.

Discharge of patients by order of inspector or visitors

38.—(1) Any two or more members of the board, one of whom is a medical practitioner, may make special visits to any patient on such days and at such hours as they think fit, and if after two distinct and separate visits made by the same visitors it appears that the patient is detained without sufficient cause, such visitors may order his discharge and he shall be discharged accordingly.

Prerequisites

(2) Every such order shall be signed by the visitors, and the discharge of a patient shall not be ordered until after a conference with the superintendent or an attending medical practitioner respecting the fitness of the patient to be discharged.

Objections of physician in charge to be recorded

(3) If the visitors after such conference, discharge a patient and the superintendent or medical practitioner has furnished them with a statement in writing containing his reasons against the discharge, they shall forthwith transmit such statement to the secretary of the board who shall enter and register it in a book to be kept for that purpose.

Time between visits, notice of visits

(4) Not less than seven days shall intervene between the first and second of such special visits, and the board shall, seven days before the second of such visits, give notice thereof, either by mail or by an entry in the visitors' book, to the proprietor or superintendent of the sanitarium, and

the proprietor or superintendent shall forthwith if possible transmit by registered mail a copy of the notice to the person by whose authority the patient was admitted or by whom the last payment on account of the patient was made.

What patients the visitors cannot discharge

(5) None of the powers of discharge extend to a patient confined under an order or the authority of the Lieutenant Governor or under the order of any court of criminal jurisdiction. R.S.O. 1970, c. 363, s. 38.

Discharge of voluntary patients

39. A voluntary patient shall be discharged from a sanitarium when, in the opinion of the superintendent, it is in the interests of the patient or of the sanitarium that he be discharged. R.S.O. 1970, c. 363, s. 39.

Discharge of certified patients

40. A certified patient shall be discharged from a sanitarium when, in the opinion of the superintendent, he has sufficiently recovered. R.S.O. 1970, c. 363, s. 40.

Discharge of warrant patients

41.—(1) A patient who has been admitted to a sanitarium on a warrant of the Lieutenant Governor shall be discharged from the sanitarium when, in the opinion of the superintendent, he has sufficiently recovered.

Idem

(2) The superintendent shall not discharge any person under subsection (1) until he has ascertained that the person is no longer liable to imprisonment. R.S.O. 1970, c. 363, s. 41.

Information respecting individuals detained in sanitarium

42. If a person applies to a member of the board to be informed whether any particular person is detained in a sanitarium, the member may give a direction so to do to the secretary of the board who shall on the receipt of such direction make search among the returns made to him under this Act, whether the person inquired for is or, within the then last twelve months, has been detained in a sanitarium under the jurisdiction of the board, and if it appears that he is or has been so detained, the secretary shall deliver to the person applying a statement in writing specifying,

(*a*) the name and location of the sanitarium in which the person appears to be or to have been detained;

(*b*) the name of its proprietor or superintendent;

(*c*) the date of admission of such person; and

(*d*) in case of his having been removed or discharged, the date of his removal or discharge. R.S.O. 1970, c. 363, s. 42.

Visits of relatives or friends

43.—(1) Any member of the board may at any time give an order in writing under his hand for the admission to any patient detained in a sanitarium of any relation or friend of such patient or of any person whom any relation or friend of the patient desires to be admitted to him.

Extent

(2) The order may be either for a single admission or for an admission for any limited number of times or for admission generally at all reasonable times.

Offence

(3) If the proprietor or superintendent refuses admission to or prevents or obstructs the admission to a patient of a person who produces such an order for his admission, he is guilty of an offence and on conviction is liable to a fine of not more than $80. R.S.O. 1970, c. 363, s. 43.

Entrusting patient to custody of his friends

44.—(1) If the superintendent of a sanitarium considers it conducive to the recovery of a patient that he be entrusted for a time to the care of his friends, the superintendent may allow him to return on trial to his friends upon receiving a written undertaking by one or more of them that he or they will keep an oversight over the patient.

Recommittal to sanitarium

(2) If within six months thereafter the patient again becomes mentally ill, mentally defective or a habitue to such a degree that his confinement in a sanitarium is necessary, the medical superintendent, with the consent of one of the visitors, to be endorsed on the warrant, may, by his warrant directed to any person or to any constable or peace officer or to all constables or peace officers, authorize and direct that the patient be apprehended and brought back to the sanitarium, and the warrant so endorsed is authority to anyone acting under it to apprehend the person named in it and to bring him back to the sanitarium. R.S.O. 1970, c. 363, s. 44.

Excursions for benefit of health

45.—(1) The proprietor or superintendent of a sanitarium, with the consent in writing of any two of the visitors, may send or take under proper control any patient to any specified place for any definite time for the benefit of his health, but before such consent is given, the approval in writing of the person who signed the requisition for the admission of the patient, or by whom the last payment on account of the patient was made, shall, if required, be produced to such visitors.

Leave of absence

(2) The superintendent of a sanitarium may permit any patient to leave the sanitarium for a specified period of not more than five days for the purpose of visiting his relatives or friends.

Recommittal

(3) Any patient who leaves the sanitarium under subsection (1) or (2) and who does not return within the specified time may be apprehended and brought back to the sanitarium in the manner provided in subsection 44 (2). R.S.O. 1970, c. 363, s. 45.

Transfer of patient to hospital
R.S.O. 1980, cc. 410, 262

46.—(1) The superintendent of a sanitarium may transfer a patient to a public hospital under the *Public Hospitals Act* or to a psychiatric facility under the *Mental Health Act* for treatment or investigation that cannot be supplied in the sanitarium and may readmit the patient to the sanitarium when the patient has received the treatment or investigation.

Powers of superintendent of hospital re custody and control of patient

(2) Where a patient has been transferred to a public hospital or a psychiatric facility under subsection (1), the superintendent of the hospital or facility to which he has been transferred shall, in addition to any of the powers conferred upon him by the general or special Act under which the hospital or facility operates, have the powers of a superintendent of a sanitarium under this Act, with respect to the custody and control of the patient. R.S.O. 1970, c. 363, s. 46.

Attendance of witnesses

47.—(1) Any two members of the board may, by summons under their hands and seals in Form 8, require any person to appear before him or them to testify on oath the truth touching any matters respecting which such visitors are authorized to inquire.

Offence

(2) Every person who does not appear pursuant to such a summons, or does not give a reasonable excuse for not appearing, or appears and refuses to be sworn or examined, is guilty of an offence and on conviction is liable to a fine of not more than $200.

Expenses of witnesses

(3) The visitors may direct the secretary of the board to pay to a person who appears pursuant to the summons all reasonable expenses of his appearance and attendance, and they shall be deemed expenses incurred by the board in the execution of this Act and shall be taken into account and paid accordingly. R.S.O. 1970, c. 363, s. 47.

Offence

48. Every person who knowingly gives, conveys or supplies to a patient detained in a sanitarium any intoxicating liquor or morphia, cocaine or other drugs without the order of the superintendent first obtained in writing is guilty of an offence and on conviction is liable to a fine of not more than $50. R.S.O. 1970, c. 363, s. 48.

Idem

49. Every one who knowingly assists directly or indirectly any patient detained in a sanitarium to escape therefrom

is guilty of an offence and on conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 363, s. 49.

Disposition of fines

50. All fines when recovered shall be paid to the clerk of the peace for the county or district in which the offence was committed, to be by him applied and accounted for as hereinbefore directed with respect to money received for licences. R.S.O. 1970, c. 363, s. 50.

Limitation of actions

51. If an action is brought against a person for anything done or purporting to be done in pursuance of this Act by and on behalf of a person who has been detained in a sanitarium and has been released therefrom, it shall be commenced within twelve months next after his release. R.S.O. 1970, c. 363, s. 51.

Leave to prosecute

52. No prosecution for an offence against this Act shall be brought except upon the order in writing of the board or with the consent in writing of the Attorney General. R.S.O. 1970, c. 363, s. 52 (1); 1972, c. 1, s. 9 (7).

Costs, charges and expenses

53. The costs, charges and expenses incurred by or under any order of the board shall be paid by the clerk of the peace for the county and shall be included by him in the account of receipts and payments hereinbefore directed to be kept by him. R.S.O. 1970, c. 363, s. 53.

Voluntary admission of habitue

54.—(1) If the licence so permits, the superintendent of a sanitarium may receive and detain therein for treatment as an habitue, any person who voluntarily makes written application in Form 9 accompanied by the certificate in Form 9 of one legally qualified medical practitioner certifying that the person is an habitue requiring treatment in a sanitarium and that he is capable of appreciating the fact that he is to be admitted as a voluntary patient.

Discharge

(2) No person so admitted shall be detained more than three days after he has given notice in writing to the superintendent of his desire to leave the sanitarium.

Idem

(3) Subsection (1) shall be deemed to have been complied with if the certificate mentioned therein is completed within twelve hours after the admission of the patient to the sanitarium. R.S.O. 1970, c. 363, s. 54.

Discharge of voluntary patients

55. The medical superintendent has full authority to discharge from the sanitarium when, in his opinion, it is

advisable, any person who has been admitted to it by his own voluntary application. R.S.O. 1970, c. 363, s. 55.

Petition to judge

56.—(1) Any relative, whether by blood or affinity, or, if he has no relative in Ontario, any friend of any alleged habitue may present a petition verified by oath setting forth the particulars mentioned in subsection (2) to the judge of the county or district court of the county or district in which the habitue resides requesting a hearing and examination of the allegations set forth in the petition, and the judge upon receiving the petition shall direct that a copy of it together with a notice setting forth the time and place for the hearing be served upon the alleged habitue at least eight clear days before the day fixed for the hearing.

Contents of petition

(2) The petition shall set forth that the alleged habitue is a resident of Ontario, and

(*a*) is so given over to the use of alcohol or drugs as to render him unable to control himself and incapable of managing his affairs; or

(*b*) by reason of the use of alcohol or drugs,

(i) squanders or mismanages his property,

(ii) places his family in danger or distress, or

(iii) transacts his business prejudicially to the interest of his family or his creditors; or

(*c*) uses alcohol or drugs to such an extent that,

(i) he is dangerous to himself or to others, or

(ii) he incurs the danger of ruining his health or shortening his life.

Hearing the petition

(3) The judge shall attend at the time and place named in the appointment and then and there proceed to inquire into the matters and allegations set forth in the petition, but he may in his discretion adjourn the inquiry from time to time.

Idem

(4) The judge has the same powers as to summoning witnesses, enforcing their attendance and the production of documents as in proceedings in the county or district court, and each party may retain counsel to conduct the proceedings and to examine witnesses.

Order for admission

(5) If the judge upon such inquiry is satisfied that the person petitioned against is an habitue and that any of the allegations in the petition are true, he may order him to be admitted to and detained in a sanitarium for a period not exceeding two years.

Arrangements

(6) Before such order is made, the judge shall ascertain that there is a vacancy in the sanitarium, and that satisfactory arrangements have been made with the medical superintendent thereof for the payment of the maintenance of the habitue.

Execution of order

(7) The order for the conveyance of the habitue to the sanitarium may be carried out by the sheriff or by any other person to whom it is directed. R.S.O. 1970, c. 363, s. 56.

Provision in case any person detained escapes

57. If an inmate of a sanitarium, admitted or committed under section 54 or 56, escapes therefrom, any officer or servant of the sanitarium or any other person at the request of the superintendent may, within forty-eight hours after such escape, or within one month thereafter when a warrant has been issued by the superintendent in that behalf, retake such escaped person and return him to the sanitarium where he shall remain under the authority by virtue of which he was detained before the escape. R.S.O. 1970, c. 363, s. 57.

FORM 1

(*Section 13 (1)*)

REQUISITION FOR ADMISSION OF MENTALLY ILL OR MENTALLY DEFECTIVE PATIENT

To the Superintendent of .....Sanitarium

I, the undersigned, hereby request you to admit .....
(*Name of patient*)

of .....
(*Address of patient*)

to .....and to detain him
(*Name of sanitarium*)
(*or* her) therein as a patient.

1. Full name of patient .....
2. Sex .....
3. Age .....
4. Relationship, if any to applicant .....
5. Occupation .....
6. Married, single, or widowed .....
7. Religion .....
8. Duration and description of present symptoms, if known .....
.....
9. Whether suicidal or dangerous to others, if known .....
10. Previous hospitalization for mental illness or mental deficiency if known
.....

Dated this .....day of....., 19....

.....
(*Signature of applicant*)

.....
(*Address*)

R.S.O. 1970, c. 363, Form 1.

FORM 2

(*Sections 13 (1), 14*)

CERTIFICATE OF MEDICAL PRACTITIONER FOR MENTALLY ILL OR MENTALLY DEFECTIVE PATIENT

I, the undersigned legally qualified medical practitioner, practising at .....in the County (*or* District) of.....hereby certify that on the.....day of....., 19...., separately from any other medical practitioner, I personally examined....

.....
(*Name of patient*)

of.....
(*Municipality*)

After due inquiry into all the necessary facts relating to the case of the patient, I do hereby further certify that (s)he is.....
(*Mentally ill*

.....and is a proper person to be admitted to and detained *or mentally defective*)

in a sanitarium and that I have formed this opinion upon the following grounds, namely:

1. Facts indicating.....
(*Mental illness or mental deficiency*)
observed by myself:

2. Other facts, if any, indicating.....
(*Mental illness or mental deficiency*)
communicated to me by others:

(*State from whom the information is received*)

Signed this.....day of....., 19....

Witness:

.....
(*Signature of medical practitioner*)

R.S.O. 1970, c. 363, Form 2.

FORM 3

(*Section 20 (1)*)

VOLUNTARY APPLICATION AND CERTIFICATE

VOLUNTARY APPLICATION

I,.....,
(*Name of applicant*)

of.....
(*Residence*)

request the superintendent of the..... Sanitarium to admit me as a voluntary patient.

I pledge myself to give at least three clear days notice in writing to the superintendent of my desire to leave the sanitarium.

Witness.....

Date..... .....
(*Signature of applicant*)

CERTIFICATE OF MEDICAL PRACTITIONER

The above named applicant has been examined by me and I am of the opinion that (s)he is suffering from a form of mental illness which requires treatment in a sanitarium, and that (s)he is capable of appreciating the fact that (s)he is to be admitted as a voluntary patient.

.....
(*Signature of medical practitioner*)

.....
(*Address*)

Date.....

R.S.O. 1970, c. 363, Form 3.

FORM 4

(*Section 21 (1)*)

REGISTER OF PATIENTS

Register No.			Name	Section of the Act under which Patient was Admitted	Date of Admission	Date of Discharge	Remaining			Remarks
M.	F.	Total					M.	F.	Total	

R.S.O. 1970, c. 363, Form 4.

FORM 5

(*Section 23*)

NOTICE OF ADMISSION

I hereby give you notice that *A.B.* was received into this sanitarium as

a patient, on the.....day of....., and I herewith transmit a copy of the requisition and medical certificates (*or* certificate) on which he was received.

Subjoined is a statement with respect to (his *or* her) mental and bodily condition.

(Signed).....
(*Name*)

Superintendent (*or* Proprietor) of.....

Dated this.....day of....., 19....

STATEMENT

I have this day seen and personally examined *A.B.*, the patient named in the above notice, and hereby certify that, with respect to mental state,

he (*or* she)....., and that,

with respect to bodily health and condition, he (*or* she).....

(Signed).....
(*Name*)

Medical Proprietor (*or* Superintendent, *or* Attendant), of.....

Dated this.....day of....., 19....

R.S.O. 1970, c. 363, Form 5.

FORM 6

(*Section 25*)

REGISTER OF DISCHARGES AND DEATHS

Date of Death or Discharge	Date of Last Admission	No. in Register, of Patients	Name and Surname in Full	Sex		Discharged			Died	Removed	Assigned Cause of Death	Age at Death	Observations
				M.	F.	Recovered	Relieved	Not Improved					

R.S.O. 1970, c. 363, Form 6.

FORM 7

(*Section 25*)

FORM OF NOTICE OF DISCHARGE OR DEATH

I hereby give you notice that.....

a patient received into this sanitarium on the.....day of..... was discharged therefrom, recovered (*or* relieved, *or* not improved) (*or* was removed therefrom) by the authority of.....

(*or* died therein) on the.....day of.....

(Signed).....
(*Name*)
Superintendent (*or* Proprietor)

.....of house

at.....

Dated this.....day of....., 19....

In case of death, add—and I further certify that *A.B.* was present at the death of the said....., and that the apparent cause of the death of the said..... (ascertained by *post mortem* examination, *if so*) was.....

R.S.O. 1970, c. 363, Form 7.

FORM 8

(*Section 47 (1)*)

FORM OF SUMMONS

We, (*names in full*)..... being two of the visitors appointed under the *Private Sanitaria Act*, do hereby summon and require you personally to appear before us at..... .....in.....on..... the.....day of....., at the hour of.....in the.....noon of the same day, and then and there to be examined, and to testify the truth touching certain matters relating to the execution of the said Act.

Given under our hands and seals, this.....day of..... in the year of our Lord, 19....

R.S.O. 1970, c. 363, Form 8.

FORM 9

(*Section 54*)

VOLUNTARY APPLICATION AND CERTIFICATE FOR HABITUE

VOLUNTARY APPLICATION BY HABITUE

I,.....,
(*Name of patient*)

of.....,
(*Residence*)

request the superintendent of the.....

Sanitarium to admit me as a voluntary patient suffering from.....

.....
(*Alcoholism or drug addiction*)

Witness.....

Date..... .....
(*Signature of applicant*)

CERTIFICATE OF MEDICAL PRACTITIONER FOR HABITUE

(Voluntary Admission)

The above named applicant has been examined by me and I am of the opinion that (s)he is an alcoholic (*or* drug) habitue requiring treatment in a sanitarium and that (s)he is capable of appreciating the fact that (s)he is to be admitted as a voluntary patient.

.....
(*Signature of medical practitioner*)

.....
(*Address*)

Date.....

R.S.O. 1970, c. 363, Form 9.

CHAPTER 392

Private Vocational Schools Act

1. In this Act, Interpretation

(*a*) "Board" means the Private Vocational School Review Board;

(*b*) "Minister" means the Minister of Colleges and Universities;

(*c*) "private vocational school" means a school or place at which instruction in any vocation is offered or provided by class room instruction or by correspondence, other than a college of applied arts and technology, a university recognized by the Ministry of Colleges and Universities or a school or course of instruction maintained under any other Act of the Legislature;

(*d*) "regulations" means the regulations made under this Act;

(*e*) "Superintendent" means the Superintendent of private vocational schools appointed under this Act;

(*f*) "vocation" means the skill and knowledge requisite for employment in any vocation prescribed by the regulations. 1974, c. 48, s. 1.

2.—(1) There shall be a Superintendent of private vocational schools who shall be appointed by the Lieutenant Governor in Council. Superintendent

(2) The Superintendent may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act. 1974, c. 48, s. 2. Duties

3.—(1) The Private Vocational School Review Board is continued and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council. Board continued

Term of Office

(2) No member of the Board shall hold office for more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum. 1974, c. 48, s. 3.

Expenditures

4. The expenditures necessary for the purposes of the Board shall be payable out of moneys appropriated therefor by the Legislature. 1974, c. 48, s. 4, *revised*.

Registration required

5.—(1) No person shall conduct or operate a private vocational school unless he is registered by the Superintendent under this Act.

Expiration of registration

(2) Every registration under this Act expires on the 31st day of December of the year in respect of which the registration is effected. 1974, c. 48, s. 5.

Registration of private vocational schools

6.—(1) An applicant is entitled to registration or renewal of registration by the Superintendent to conduct or operate a private vocational school and to be issued a certificate of registration except where,

(*a*) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the private vocational school; or

(*b*) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the private vocational school in accordance with law and with integrity and honesty; or

(*c*) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of the private vocational school, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that the

private vocational school will not be carried on in accordance with law and with integrity and honesty; or

(*d*) it can reasonably be expected that the course or courses of study or the method of training offered by the private vocational school will not provide the skill and knowledge requisite for employment in the vocation or vocations for which the applicant is offering instruction; or

(*e*) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are imposed by the Board or prescribed by the regulations.

Registration not transferable

(3) A registration is not transferable. 1974, c. 48, s. 6.

Refusal to register

7.—(1) Subject to section 8, the Superintendent may refuse to register an applicant where in the Superintendent's opinion the applicant is disentitled to registration under section 6.

Revocation and refusal to renew

(2) Subject to section 8, the Superintendent may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 if he were an applicant, or where the registrant is in breach of a term or condition of the registration. 1974, c. 48, s. 7.

Notice of proposal to refuse or revoke

8.—(1) Where the Superintendent proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Board, if he mails or delivers to the Superintendent and the Board within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing, and he may so require such a hearing.

Powers of Superintendent where no hearing

(3) Where an applicant or registrant does not require a hearing by the Board in accordance with subsection (2), the Superintendent may carry out the proposal stated in his notice under subsection (1).

Powers of Board

(4) Where an applicant or registrant requires a hearing by the Board in accordance with subsection (2), the Board shall appoint a time for and hold the hearing and, on the application of the Superintendent at the hearing, may by order direct the Superintendent to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Superintendent ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Superintendent.

Conditions of order

(5) The Board may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Superintendent, the applicant or registrant who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board under this section.

Oral evidence

(7) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Voluntary cancellation

(8) Notwithstanding subsection (1), the Superintendent may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his certificate of registration.

Continuance pending renewal

(9) Where, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Superintendent proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Board has made its order. 1974, c. 48, s. 8.

Extension of time

9. The Board may extend the time for requiring a hearing under section 8, either before or after expiration of the time fixed therein, where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or registrant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension. 1974, c. 48, s. 9.

Provisional suspension

10. Notwithstanding subsection 8 (9), the Superintendent, by notice to a registrant and without a hearing, may provisionally refuse renewal of or suspend registration of the registrant where in the Superintendent's opinion it is necessary to do so for the immediate protection of the interests of the students of the private vocational school and the Superintendent so states in such notice giving his reasons therefor, and thereafter the provisions of section 8 apply as if the notice given under this section were a notice of a proposal to revoke the registration under subsection 8 (1). 1974, c. 48, s. 10.

Further applications

11. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. 1974, c. 48, s. 11.

Appeal to court

12.—(1) Any party to a hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) The Divisional Court may confirm or alter the decision of the Board or direct the Superintendent to do any act he is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Superintendent or the Board.

Effect of decision of Board pending disposal of appeal

(5) Notwithstanding that an applicant or registrant has appealed under this section from a decision of the Board, unless the Board, or the Divisional Court upon an application, otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1974, c. 48, s. 12.

Notice of material changes

13. Every private vocational school shall, within five days after the event, notify the Superintendent in writing of,

(*a*) any change in its address for service;

(*b*) any change in the officers or directors in the case of a corporation or of the members in the case of a partnership. 1974, c. 48, s. 13.

Inspection

14.—(1) The Superintendent, or any person authorized by him in writing, may inspect any private vocational school at any reasonable time to examine the operation thereof, to observe the method of instruction given therein or to inspect the books, records or other documents relating to the operation of the private vocational school including the inspection of any circulars, pamphlets or other material used for advertising the private vocational school.

Obstruction of inspector

(2) No person shall obstruct the Superintendent or a person authorized to make an inspection under subsection (1) or withhold from such a person or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection. 1974, c. 48, s. 14.

Goods or services of students not to be sold

15. No person who owns or operates a private vocational school shall sell or permit to be sold to the public, the goods or services of any student of the school. 1974, c. 48, s. 15.

Court proceedings

16. No person who owns or operates a private vocational school which is not registered under this Act is capable of maintaining an action or other proceeding in any court in Ontario in respect of any contract made in whole or in part within Ontario, or against any person domiciled in Ontario, in the course of or in connection with the conduct or operation of the private vocational school. 1974, c. 48, s. 16.

Service

17.—(1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last-known address.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1974, c. 48, s. 17.

Offences

18.—(1) Every person who,

(*a*) knowingly, furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Limitation

(3) No proceeding under clause (1) (*a*) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Superintendent.

Idem

(4) No proceeding under clause (1) (*b*) or (*c*) shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Rescission of contract

(5) Any person who enters into a written contract with a private vocational school in respect of a course or courses of instruction may rescind the contract by delivering a notice personally or by registered mail addressed to the private vocational school at the address shown in the contract within two days after the duplicate original copy of the contract first comes into the possession of the person and, where the contract is rescinded, the person shall immediately return any goods received under the contract and the private vocational school shall return any moneys received or realized in respect of the contract. 1974, c. 48, s. 18.

Certificate as evidence

19.—(1) A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Superintendent;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Superintendent;

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Superintendent is, without proof of the office or signature of the Superintendent, receiv-

able in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of Minister's signature

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister. 1974, c. 48, s. 19.

Regulations

20.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing vocations to which this Act and the regulations apply;

(*b*) exempting any vocation or class of private vocational school from this Act or the regulations or any provision thereof;

(*c*) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(*d*) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;

(*e*) requiring registered private vocational schools to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

(*f*) prescribing further procedures respecting the conduct of matters coming before the Board;

(*g*) requiring and governing the books, accounts and records relating to the due compliance with the provisions of this Act that shall be kept by private vocational schools;

(*h*) requiring private vocational schools to make returns and furnish information to the Superintendent;

(*i*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(*j*) prescribing the accommodation and equipment required by private vocational schools and the means of instruction to be used;

(*k*) requiring the approval of the Superintendent for courses of study, requirements for admission, qualifications of teachers, methods of instruction, and premises and equipment used, in connection with a private vocational school;

(*l*) prescribing the minimum number of hours of instruction in any vocation that shall constitute a course of instruction in that vocation;

(*m*) prescribing the maximum fees that shall be paid or received for a course of instruction in a vocation;

(*n*) prescribing the terms and conditions upon which money paid for or on account of instruction in a private vocational school shall be either retained by the payee or be repayable to the payer;

(*o*) prohibiting the use of any advertising relating to a private vocational school that may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the owner of a private vocational school;

(*p*) regulating the selling or offering for sale of any course of instruction offered by a private vocational school;

(*q*) prescribing the amount that may be charged for the material used by or the services supplied to any student of the private vocational school;

(*r*) providing that no certificate or other document as to the competency of any student shall be issued by a private vocational school unless the student has submitted himself to such examination as may be prescribed by the regulations, and prescribing fees for such examination and certificate;

(*s*) prescribing the nature of any examinations for certificates of competency, the manner, times and places of holding such examinations, and the persons who shall sit as examiners;

(*t*) governing the conduct, operation and management of private vocational schools; and

(*u*) prescribing forms and providing for their use.

Adoption by reference

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any publication and may require compliance with any publication that is so adopted. 1974, c. 48, s. 20.

CHAPTER 393

Proceedings Against the Crown Act

Interpretation

1. In this Act,

(*a*) "agent", when used in relation to the Crown, includes an independent contractor employed by the Crown;

(*b*) "Crown" means Her Majesty the Queen in right of Ontario;

(*c*) "order" includes a judgment, decree, rule, award and declaration;

(*d*) "proceedings against the Crown" includes a claim by way of set-off or counterclaim raised in proceedings by the Crown and includes interpleader proceedings to which the Crown is a party;

(*e*) "servant", when used in relation to the Crown, includes a minister of the Crown. R.S.O. 1970, c. 365, s. 1.

Acts not affected

R.S.O. 1980, cc. 61, 97, 148, 213, 230, 269, 298, 300, 454, 539

2.—(1) This Act does not affect and is subject to the *Certification of Titles Act* as to claims against The Certification of Titles Assurance Fund, the *Corporations Tax Act*, the *Expropriations Act*, the *Public Transportation and Highway Improvement Act*, the *Income Tax Act*, the *Land Titles Act*, as to claims against The Land Titles Assurance Fund, the *Mining Tax Act*, the *Motor Vehicle Accident Claims Act,* the *Motor Vehicle Fuel Tax Act*, the *Retail Sales Tax Act*, the *Workmen's Compensation Act* and *The Succession Duty Act,* being chapter 449 of the Revised Statutes of Ontario, 1970. R.S.O. 1970, c. 365, s. 2 (1); 1971, c. 61, s. 1; 1973, c. 10, s. 1.

Limits of scope of Act

(2) Nothing in this Act,

(*a*) subjects the Crown to greater liability in respect of the acts or omissions of a servant or agent of the Crown than that to which the Crown would be subject in respect of such acts or omissions if it were a person of full age and capacity; or

(*b*) subjects the Crown to proceedings under this Act in respect of a cause of action that is enforceable against a corporation or other agency of the Crown; or

(*c*) subjects the Crown to proceedings under this Act in respect of any act or omission of a servant of the Crown unless that servant has been appointed by or is employed by the Crown; or

(*d*) subjects the Crown to proceedings under this Act in respect of anything done in the due enforcement of the criminal law or of the penal provisions of any Act of the Legislature; or

R.S.O. 1980, c. 257

(*e*) authorizes proceedings against the Crown under the *Master and Servant Act*. R.S.O. 1970, c. 365, s. 2 (2).

Right to sue Crown without fiat

3. Except as provided in section 29, a claim against the Crown that, if this Act had not been passed, might be enforced by petition of right, subject to the grant of a fiat by the Lieutenant Governor, may be enforced as of right by proceedings against the Crown in accordance with this Act without the grant of a fiat by the Lieutenant Governor. R.S.O. 1970, c. 365, s. 3.

Right to sue Crown corporation without consent

4. A claim against a corporation of the Crown that, if this Act had not been passed, might be enforced, subject to the consent of a servant of the Crown, may be enforced as of right without such consent. R.S.O. 1970, c. 365, s. 4.

Liability in tort

R.S.O. 1980, c. 257

5.—(1) Except as otherwise provided in this Act, and notwithstanding section 11 of the *Interpretation Act*, the Crown is subject to all liabilities in tort to which, if it were a person of full age and capacity, it would be subject,

(*a*) in respect of a tort committed by any of its servants or agents;

(*b*) in respect of a breach of the duties that a person owes to his servants or agents by reason of being their employer;

(*c*) in respect of any breach of the duties attaching to the ownership, occupation, possession or control of property; and

(*d*) under any statute, or under any regulation or by-law made or passed under the authority of any statute.

Where proceedings in tort lie

(2) No proceedings shall be brought against the Crown under clause (1) (*a*) in respect of an act or omission of a servant or agent of the Crown unless proceedings in tort in respect of such act

or omission may be brought against that servant or agent or his personal representative.

Liability for acts of servants performing duties legally required

(3) Where a function is conferred or imposed upon a servant of the Crown as such, either by a rule of the common law or by or under a statute, and that servant commits a tort in the course of performing or purporting to perform that function, the liability of the Crown in respect of the tort shall be such as it would have been if that function had been conferred or imposed by instructions lawfully given by the Crown.

Application of enactments limiting liability of servants of the Crown

(4) In proceedings against the Crown under this section, an enactment that negatives or limits the liability of a servant of the Crown in respect of a tort committed by that servant applies in relation to the Crown as it would have applied in relation to that servant if the proceedings against the Crown had been proceedings against that servant.

Property vesting in the Crown

(5) Where property vests in the Crown independent of the acts or the intentions of the Crown, the Crown is not, by virtue of this Act, subject to liability in tort by reason only of the property being so vested; but this subsection does not affect the liability of the Crown under this Act in respect of any period after the Crown, or any servant of the Crown, has in fact taken possession or control of the property.

Limitation of liability in respect of judicial acts

(6) No proceedings lie against the Crown under this section in respect of anything done or omitted to be done by a person while discharging or purporting to discharge responsibilities of a judicial nature vested in him or responsibilities that he has in connection with the execution of judicial process. R.S.O. 1970, c. 365, s. 5.

Application of law as to indemnity and contribution

6. The law relating to indemnity and contribution is enforceable by and against the Crown in respect of any liability to which it is subject, as if the Crown were a person of full age and capacity. R.S.O. 1970, c. 365, s. 6.

Notice of claim

7.—(1) Subject to subsection (3), except in the case of a counterclaim or claim by way of set-off, no action for a claim shall be commenced against the Crown unless the claimant has, at least sixty days before the commencement of the action, served on the Crown a notice of the claim containing sufficient particulars to identify the occasion out of which the claim arose, and the Attorney General may require such additional particulars as in his opinion are necessary to enable the claim to be investigated. R.S.O. 1970, c. 365, s. 7 (1); 1972, c. 1, s. 9 (7).

Limitation period extended

(2) Where a notice of a claim is served under subsection (1) before the expiration of the limitation period applying to the commencement of an action for the claim and the sixty-day period referred to in subsection (1) expires after the expiration of the limitation period, the limitation period is extended to the end of seven days after the expiration of the sixty-day period.

Notice of claim for breach of duty respecting property

(3) No proceedings shall be brought against the Crown under clause 5 (1) (*c*) unless the notice required by subsection (1) is served on the Crown within ten days after the claim arose. R.S.O. 1970, c. 365, s. 7 (2, 3).

Proceedings in Supreme Court

R.S.O. 1980, c. 223

8. Except as otherwise provided in this Act, proceedings against the Crown in the Supreme Court shall be instituted and proceeded with in accordance with the *Judicature Act* and the rules of court. R.S.O. 1970, c. 365, s. 8.

Proceedings in county and district courts

R.S.O. 1980, c. 100

9. Except as otherwise provided in this Act and subject to any enactment limiting the jurisdiction of county and district courts, proceedings against the Crown may be instituted in a county or district court and proceeded with in accordance with the *County Courts Act* and the rules of court. R.S.O. 1970, c. 365, s. 9.

Proceedings in small claims courts

R.S.O. 1980, c. 476

10. Except as otherwise provided in this Act and subject to any enactment limiting the jurisdiction of small claims courts, proceedings against the Crown may be instituted in a small claims court and proceeded with in accordance with the *Small Claims Courts Act* and the rules thereunder. R.S.O. 1970, c. 365, s. 10.

Appeals, stay of execution, etc.

11. Except as otherwise provided in this Act, all enactments and rules of court relating to appeals and stay of execution or proceedings, with necessary modifications, apply to proceedings against the Crown. R.S.O. 1970, c. 365, s. 11.

Discovery

12. In proceedings against the Crown, the rules of the court in which the proceedings are pending as to discovery and inspection of documents and examination for discovery apply in the same manner as if the Crown were a corporation, except that,

(*a*) the Crown may refuse to produce a document or to answer a question on the ground that the production or answer would be injurious to the public interest;

(*b*) the person who shall attend to be examined for discovery shall be an official designated by the Deputy Attorney General; and

(*c*) the Crown is not required to deliver an affidavit on production of documents for discovery and inspection, but a list of the documents that the Crown may be required to produce, signed by the Deputy Attorney General, shall be delivered. R.S.O. 1970, c. 365, s. 12; 1972, c. 1, s. 9 (7).

Designation of Crown in proceedings

13. In proceedings under this Act, the Crown shall be designated "Her Majesty the Queen in right of Ontario". R.S.O. 1970, c. 365, s. 13.

Service on the Crown

14. In proceedings under this Act, a document to be served on the Crown shall be served by leaving a copy with the Attorney General or the Deputy Attorney General or any barrister or solicitor in the office of the Attorney General. R.S.O. 1970, c. 365, s. 14; 1972, c. 1, s. 9 (7).

Trial without jury

15. In proceedings against the Crown, trial shall be without a jury. R.S.O. 1970, c. 365, s. 15.

Interpleader

16. The Crown may obtain relief by way of interpleader proceedings and may be made a party to such proceedings in the same manner as a person may obtain relief by way of such proceedings, or be made a party thereto, notwithstanding that the application for relief is made by a sheriff or bailiff or other like officer, and the provisions relating to interpleader proceedings in the rules of court, subject to this Act, shall have effect accordingly. R.S.O. 1970, c. 365, s. 16.

Rights of parties and authority of court

17. Except as otherwise provided in this Act, in proceedings against the Crown, the rights of the parties are as nearly as possible the same as in a suit between persons, and the court may make any order that it may make in proceedings between persons, and may otherwise give such appropriate relief as the case may require. R.S.O. 1970, c. 365, s. 17.

No injunction or specific performance against Crown

18.—(1) Where in proceedings against the Crown any relief is sought that might, in proceedings between persons, be granted by way of injunction or specific performance, the court shall not, as against the Crown, grant an injunction or make an order for specific performance, but in lieu thereof may make an order declaratory of the rights of the parties.

Limitation on injunctions and orders against Crown servants

(2) The court shall not in any proceedings grant an injunction or make an order against a servant of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown that could not have been obtained in proceedings against the Crown, but in lieu thereof may make an order declaratory of the rights of the parties. R.S.O. 1970, c. 365, s. 18.

Order for recovery of property not to be made against Crown

19. In proceedings against the Crown in which the recovery of real or personal property is claimed, the court shall not make an order for its recovery or delivery, but in lieu thereof may make an order declaring that the claimant is entitled, as against the Crown, to the property claimed or to the possession thereof. R.S.O. 1970, c. 365, s. 19.

Restriction on set-off and counter-claim

20.—(1) No person may avail himself of any set-off or counterclaim in proceedings by the Crown for the recovery of taxes, duties, or penalties, or avail himself, in proceedings of any other nature by the Crown, of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties.

Idem

(2) Subject to subsection (1), a person may avail himself of any set-off or counterclaim in proceedings by the Crown if the subject-matter of the set-off or the counterclaim relates to a matter under the administration of the particular government ministry with respect to which the proceedings are brought by the Crown. R.S.O. 1970, c. 365, s. 20; 1972, c. 1, s. 2.

Crown defences

21. In proceedings against the Crown, any defence that, if the proceedings were between persons, could be relied upon by the defendant as a defence to the proceedings or otherwise may be relied upon by the Crown. R.S.O. 1970, c. 365, s. 21.

No judgment by default against Crown without leave

22. In proceedings against the Crown, judgment shall not be entered against the Crown in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown. R.S.O. 1970, c. 365, s. 22.

Proceedings *in rem*

23. Nothing in this Act authorizes proceedings *in rem* in respect of any claim against the Crown, or the seizure, attachment, arrest, detention or sale of any property of the Crown. R.S.O. 1970, c. 365, s. 23.

Interest on judgment debt

24. A judgment debt due to or from the Crown bears interest in the same way as a judgment debt due from one person to another. R.S.O. 1970, c. 365, s. 24.

Prohibition of execution, etc., against Crown

25. No execution or attachment or process in the nature thereof shall be issued out of any court against the Crown. R.S.O. 1970, c. 365, s. 25.

Payment by Crown

26. Where an order of a court provides for the payment of money by the Crown by way of damages or costs or otherwise and such order is final and not subject to appeal, the Treasurer of Ontario shall pay out of the Consolidated Revenue Fund to the person entitled, or to his order, the amount due,

together with the interest, if any, lawfully due thereon. R.S.O. 1970, c. 365, s. 26.

Conflict

27. Where this Act conflicts with any other Act, this Act governs. R.S.O. 1970, c. 365, s. 27.

CHAPTER 394

Professional Engineers Act

INTERPRETATION

1. In this Act, Interpretation

(*a*) "Association" means the Association of Professional Engineers of the Province of Ontario;

(*b*) "by-law" means a by-law of the Association;

(*c*) "chapter" means a group of members constituted and governed by by-law;

(*d*) "council" means the council of the Association;

(*e*) "graduate" means a graduate of a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and which is recognized by the council;

(*f*) "licence" means a licence to practise professional engineering issued under this Act;

(*g*) "licensee" means a person who holds a subsisting licence;

(*h*) "member" means a member of the Association;

(*i*) "practice of professional engineering" means the doing of one or more acts of advising on, reporting on, designing of or supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges, cranes, drainage works, irrigation works, waterworks, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete or reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric or electronic apparatus, electrical or electronic communication

systems or equipment, mineral property, mining machinery, mining development, mining operations, gas or oil developments, smelters, refineries, metallurgical machinery, or equipment or apparatus for carrying out such operations, machinery, boilers or their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines or other mechanical structures, chemical or metallurgical machinery, apparatus or processes, or aircraft, and generally all other engineering works including the engineering works and installations relating to airports, airfields or landing strips or relating to town and community planning;

(*j*) "professional engineer" means a person who is a member or licensee;

(*k*) "region" means a geographical area of Ontario as defined by by-law;

(*l*) "register" means the record of registrants maintained by the registrar;

(*m*) "registrant" means a person recorded in the register as a member, licensee, an assistant to a professional engineer, a graduate or an undergraduate;

(*n*) "registrar" means the registrar of the Association;

(*o*) "regulation" means a regulation of the Association;

(*p*) "undergraduate" means a student enrolled at but not graduated from a university or other educational institution in a course in any branch of engineering or science, the practice of which constitutes professional engineering and that is recognized by the council. R.S.O. 1970, c. 366, s. 1.

Activities not affected

2. Nothing in this Act prevents,

(*a*) any person from performing his duties in the Canadian Forces;

R.S.O. 1980, c. 26

(*b*) any member or licensee of the Ontario Association of Architects under the *Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect;

(*c*) any person who holds a certificate of qualification under the *Operating Engineers Act* from practising or designating himself as an operating engineer; R.S.O. 1980, c. 363

(*d*) any person from practising as a bacteriologist, chemist, geologist, mineralogist or physicist;

(*e*) any person from advising on or reporting on any mineral property or prospect;

(*f*) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or requires any such person to become registered or licensed under this Act in order to do any such thing. R.S.O. 1970, c. 366, s. 2.

ASSOCIATION

3.—(1) The body politic and corporate known as the "Association of Professional Engineers of the Province of Ontario" incorporated under *The Professional Engineers Act, 1922* is hereby continued. Association continued 1922, c. 59

(2) All persons who were members of the Association on the 1st day of August, 1969 or who have been admitted as members since that day constitute the Association. Members

(3) The objects of the Association are, Objects

(*a*) to regulate the practice of professional engineering and to govern the profession in accordance with this Act, the regulations and the by-laws;

(*b*) to establish and maintain standards of knowledge and skill among its members; and

(*c*) to establish and maintain standards of professional ethics among its members,

in order that the public interest may be served and protected. R.S.O. 1970, c. 366, s. 3 (1-3).

(4) The head office of the Association shall be in The Municipality of Metropolitan Toronto. 1972, c. 45, s. 1. Head office

(5) The Association may purchase, acquire or take by gift, devise or bequest for the purposes of the Association and the furtherance of its objects, but for no other purposes Property

or objects, any real or personal property, and may sell, mortgage, lease or otherwise dispose of any such property. R.S.O. 1970, c. 366, s. 3 (5).

COUNCIL

Council

4.—(1) There shall be a council which shall consist of a president, a first vice-president, a second vice-president, an immediate past president, two elected councillors-at-large, ten elected regional councillors and five appointed councillors, all of whom shall be members and residents of Ontario.

President and vice-presidents

(2) The president and the vice-presidents shall have such qualifications as are prescribed by by-law and shall be elected annually by vote of the members.

Councillors-at-large

(3) One councillor-at-large shall be elected each year for a two-year term by vote of the members.

Regional councillors

(4) There shall be elected from each of the five regions established and defined by by-law two regional councillors, one to be elected from each region each year for a two-year term by vote of the members who are recorded as residents in that region at the time the election is held.

Appointed councillors

(5) The five appointed councillors shall be appointed by the Lieutenant Governor in Council for a term of three years and shall be qualified respectively in the following fields of engineering:

1. Civil.
2. Mechanical, Aeronautical and Industrial.
3. Electrical.
4. Chemical and Metallurgical.
5. Mining and Geology.

Lay councillor: legal councillor

(6) In addition to the councillors mentioned in subsection (1), the Lieutenant Governor in Council may appoint as councillors,

(*a*) a person who is not a member; and

(*b*) a person who is a barrister and solicitor of at least ten years standing at the bar of Ontario,

both of whom are residents of Ontario.

(7) Persons appointed under subsection (6) shall serve for a term of three years but are eligible for reappointment. Term

(8) Where the president, a vice-president or a councillor resigns, is absent from three consecutive meetings of the council, becomes incapacitated or dies, the office may be declared vacant by the council, and, if such office should be declared vacant, except in a case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy in such manner as is provided by by-law, and in the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy by appointment of a person of the same class as the councillor causing the vacancy. Vacancies

(9) No person shall be appointed or elected to the council unless he is a Canadian citizen or other British subject, and no person shall continue to hold any such office if he ceases to be so qualified. R.S.O. 1970, c. 366, s. 4. Councillors to be Canadians

5. The council, Registrar, treasurer, secretary, executive director

(*a*) shall appoint a registrar and a treasurer; and

(*b*) may appoint a secretary, an executive director and such other officials as the council considers appropriate,

and any two or more of such offices may be held by one person. R.S.O. 1970, c. 366, s. 5.

6. No action or other proceedings for damages shall be instituted against the council, or any member or official of the council or any person appointed by the council for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of any such duty or power. R.S.O. 1970, c. 366, s. 6. Liability of council, officers and members

7.—(1) The council may make regulations respecting any matter that is outside the scope of the power to pass by-laws specified in section 8 and, without limiting the generality of the foregoing, Regulations

(*a*) prescribing the scope and conduct of examinations of candidates for registration;

(*b*) prescribing the form of the summons referred to in subsection 25 (10);

(*c*) respecting the practice and procedure for hearings held under this Act;

(*d*) defining "professional misconduct" for the purpose of this Act and the regulations;

(*e*) defining classes of specialists in the various fields of engineering;

(*f*) prescribing the qualifications required of specialists or any class thereof;

(*g*) providing for the designation of specialists upon application and examination or otherwise, for the suspension or revocation of such designations, and for the regulation and prohibition of the use of terms, titles or designations by professional engineers indicating specialization in any field of engineering;

(*h*) regulating and prohibiting the use of terms, titles or designations by professional engineers in independent practice.

Approvals

(2) No regulation is effective,

(*a*) until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time; and

(*b*) until it has been approved by the Lieutenant Governor in Council. R.S.O. 1970, c. 366, s. 7.

By-laws

8.—(1) The council may pass by-laws relating to the administrative and domestic affairs of the Association, and, without limiting the generality of the foregoing,

(*a*) respecting the determination and modification of the boundaries of regions and the determination of regions in which members shall be deemed to reside for the purposes of the election of councillors;

(*b*) prescribing procedures for the nomination and election of the councillors and the nomination and election of the president and the vice-presidents and the qualifications necessary to hold any such office;

(*c*) prescribing the duties of the councillors and rules governing their conduct;

(*d*) respecting the remuneration and reimbursement of members of the council;

(*e*) respecting the calling, holding and conduct of meetings of the council and the Association;

(*f*) providing for the establishment and regulation of chapters;

(*g*) respecting the management of the property of the Association;

(*h*) providing for the borrowing of money on the credit of the Association and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Association to secure any money borrowed or other debt or any other obligation or liability of the Association;

(*i*) respecting the application of the funds of the Association, and the investment and reinvestment of any of its funds not immediately required in any investments that may from time to time be authorized investments for joint stock insurance companies and cash mutual insurance corporations under the *Corporations Act*; R.S.O. 1980, c. 95

(*j*) defining the composition and functions of the board of examiners;

(*k*) providing for the establishment of scholarships, bursaries and prizes;

(*l*) providing for the appointment of committees of the council and defining their composition and functions;

(*m*) providing for the closing of the register and the restriction of recording changes of addresses of the registrants for a period of time not exceeding forty-eight hours, exclusive of Sundays and holidays, immediately preceding any meeting of the members or any election;

(*n*) respecting the registration of members and the recording of licensees, graduates, undergraduates and assistants to professional engineers;

(*o*) for maintaining a system for the recording of registrants, their residence addresses and the regions in which they are resident and for the recording of the names of official representatives of partnerships, associations of persons or corporations;

(*p*) providing for services to encourage and assist members in the development of their professional competence and conduct and in carrying on the practice of professional engineering;

(*q*) fixing and providing for levying and collecting or remitting annual and other fees, levies and assessments;

(*r*) prescribing forms and providing for their use;

(*s*) respecting all other things that are deemed necessary or convenient for the attainment of the objects of the Association and the efficient conduct of its business.

Approval

(2) No by-law is effective until it has been submitted to the members for approval by means of a letter ballot returnable within thirty days after the mailing thereof and unless it has been approved by a majority of those voting within the prescribed time.

Construction

(3) As between a registrant and the Association, the ruling of the council on the construction and interpretation of any by-law is final. R.S.O. 1970, c. 366, s. 8.

Code of ethics

9.—(1) The council shall prepare and publish from time to time a code of ethics containing standards of conduct designed for the protection of the public, which standards members and licensees must subscribe to and follow in the practice of professional engineering.

Copies

(2) Copies of the code of ethics shall be sent to the members and licensees and shall be available free of charge to members of the public who apply therefor. R.S.O. 1970, c. 366, s. 9.

Canadian Council of Professional Engineers

10. The council may authorize participation by the Association in the activities of the Canadian Council of Professional Engineers, as a constituent association thereof. R.S.O. 1970, c. 366, s. 10.

MEMBERSHIP

Qualification for membership

11.—(1) Any applicant for membership who,

(*a*) resides,

(i) in Ontario,

(ii) out of Ontario and is employed for an indefinite period as a full-time employee of an employer having works or facilities in Ontario and is required by the terms of his employment to practise professional engineering in respect of such works or facilities or has a place of employment in Ontario and practises or proposes to practise professional engineering in Ontario on a full-time basis;

(*b*) is twenty-one or more years of age;

(*c*) has passed the examinations prescribed by the council or is exempted therefrom pursuant to subsection (3) or (6);

(*d*) has had six or more years of experience in engineering work satisfactory to the council; and

(*e*) provides satisfactory evidence of good character,

shall be admitted as a member by the council.

Evidence of qualification

(2) Each applicant for membership shall submit upon the prescribed form evidence of his educational qualifications and engineering experience, information as to his residence and at least three references as to his character and engineering experience, and he may be required by the council to verify the statements set out in his application by affidavit.

Credit for academic and other qualifications

(3) The council may exempt an applicant from any of the examinations mentioned in clause (1) (*c*) if the council is of the opinion that the applicant has adequate academic and other qualifications.

Credit for time spent at a university

(4) Where the applicant is a graduate, upon presenting evidence of the actual time during which he was under instruction as an undergraduate in a university, the council shall grant him the time spent under such instruction in reduction of the six-year period of engineering experience required by clause (1) (*d*), but only in so far as the total exemption granted does not exceed four years.

Board of examiners to consider applications

(5) The council may for the purpose of subsection (3) or (4) require the board of examiners to consider and make recommendations to the council with respect to any application for exemption, including an application for exemption of a graduate in honours science. R.S.O. 1970, c. 366, s. 11.

Admission of members of other associations

12. The council may, upon application and satisfactory proof of residence, admit as a member any person who resides in Ontario, or who resides out of Ontario under the circumstances set out in subclause 11 (1) (*a*) (ii), and who furnishes satisfactory proof,

(*a*) that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario; or

(*b*) that he is a member of an association of professional engineers in another part of the Commonwealth or in the United States of America that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario. R.S.O. 1970, c. 366, s. 12.

Students and assistants

13.—(1) Persons who are engaged as assistants to professional engineers in categories recognized by the council and graduates and undergraduates who have not completed the period of engineering experience required by this Act and who contemplate applying for membership on the completion of the period of engineering experience may, upon application in the prescribed form, be recorded in the register but not as members of the Association until fully qualified, and upon being so recorded are subject to the control of the council in accordance with this Act, the regulations and the by-laws.

Deletion of names

(2) Any registrant whose name is recorded in the register pursuant to subsection (1) may, upon application, have his name deleted from the register. R.S.O. 1970, c. 366, s. 13.

Annual fee

14.—(1) The annual fee from a registrant shall be deemed to be a debt due to the Association and is recoverable from him in the name of the Association in any court of competent jurisdiction.

Non-payment of annual fee

(2) Where the annual fee is not paid within six months from the date upon which it became due, the treasurer shall send a written notice of such default by prepaid mail

addressed to the registrant's latest address as shown on the register, and, if payment is not made within one month thereafter, the registrar, upon the direction of the council, shall delete or cause the name of the registrant to be deleted from the register, and thereupon the registrant ceases to be a member, a licensee, an assistant to a professional engineer, or a graduate or undergraduate recorded pursuant to section 13, as the case may be. R.S.O. 1970, c. 366, s. 14.

Resignations

15. Any member who intends to withdraw from the practice of professional engineering and whose fees are paid up shall send written notice thereof to the registrar, whereupon the registrar shall delete his name from the register. R.S.O. 1970, c. 366, s. 15.

Restorations

16. Any person who ceased to be a member under subsection 14 (2), upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any person whose name has been deleted from the register under section 15, upon payment of the fee for the current year, and, in either case, upon production of evidence of good character satisfactory in the council, shall, upon the direction of the council, have his name restored on the register. R.S.O. 1970, c. 366, s. 16.

LICENSING

Issue of licences to members of associations of other provinces

17.—(1) The registrar may upon application issue a licence to any person who resides in Canada but not in Ontario and who furnishes satisfactory proof that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association.

Issue of licences to consulting specialists

(2) Any person who does not reside in Canada but who in the opinion of the council is a consulting specialist in a field of professional engineering who has had not less than ten years experience in the practice of his profession, or who furnishes satisfactory evidence that he has qualifications at least equal to those required for registration as a professional engineer in Ontario, may, with the approval of the council, be issued a licence.

Issue of licences to persons from provinces without associations

(3) Any person practising or proposing to practise professional engineering in Ontario who resides in a province or territory of Canada in which there is no association of professional engineers that has objects similar to those of the Association, may, with the approval of the council, be issued a licence.

Practise by applicant for a licence

(4) Where an applicant for a licence fails to obtain it promptly for any reason unrelated to his professional capacity or his own neglect, he may practise professional engineering in Ontario for a period of not more than three months without a licence.

Licence to be issued by the registrar

(5) The registrar shall issue a licence in the prescribed form to any person entitled thereto and shall specify therein the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued.

Additional condition

(6) The council may direct that any licence issued under subsection (2) shall, in addition to the conditions mentioned in subsection (5), contain a condition that the licensee may practise professional engineering in Ontario only in collaboration with a member who shall sign and seal any plans and specifications together with the licensee. R.S.O. 1970, c. 366, s. 17.

Where licence not required

18. Any person who is employed as a professional engineer by a public service corporation carrying on an interprovincial undertaking or by the Government of Canada and who is by reason of his employment required to practise professional engineering in a province or territory of Canada other than that of his residence may practise professional engineering in Ontario without a licence, but he shall on demand of the council furnish satisfactory evidence that he is a member of an association of professional engineers in another province or a territory of Canada that has objects similar to those of the Association. R.S.O. 1970, c. 366, s. 18.

Seals, members

19.—(1) Every member shall have a seal of a design approved by the council, the impression of which shall contain the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario".

Idem, licensees

(2) Every licensee shall have a seal of a design approved by the council, the impression of which shall contain the name of the licensee and the words "Licensed Professional Engineer" and "Province of Ontario".

Signature and use of seal

(3) All final drawings, specifications, plans, reports and other documents involving the practice of professional engineering when issued shall bear the signature and seal of the professional engineer who prepared or approved them. R.S.O. 1970, c. 366, s. 19.

PARTNERSHIPS, CORPORATIONS

Practice prohibited by partnerships and corporations

20.—(1) No partnership, association of persons or corporation as such shall be a member or a licensee, or shall, except as authorized by this section, practise professional engineering.

Certificates of authorization

(2) A partnership, association of persons or corporation that holds a certificate of authorization may, in its own name, practise professional engineering,

(*a*) if one of its principal or customary functions is to engage in the practice of professional engineering; and

(*b*) if the practice of professional engineering is done under the responsibility and supervision of a member of the partnership or association of persons, or of a director or full-time employee of the corporation, as the case may be, who,

(i) is a member, or

(ii) is a licensee, in which case the practice of professional engineering shall be restricted to the work specified in the licence of the licensee.

Applications for certificates

(3) A partnership, association of persons or corporation that desires a certificate of authorization shall submit to the registrar an application in the prescribed form containing,

(*a*) the names and addresses of all its partners, members, officers or directors, as the case may be;

(*b*) the names of all its partners, members of associations of persons, directors of corporations, or full-time employees of corporations, as the case may be, who are the members or licensees who will be in charge of professional engineering on its behalf;

(*c*) from among the names specified under clause (*b*) the name or names of its official representative or representatives whose duty it is to ensure that this Act, and the regulations and the by-laws are complied with by the partnership, the association of persons or the corporation, as the case may be,

and shall, whenever there is a change in the particulars given in its application, give notice of the change to the registrar within thirty days after the effective date of the change.

Issue of certificates

(4) If subsection (3) is complied with, the registrar shall issue to the applicant a certificate of authorization.

Ipso facto revocation of certificate

(5) Where the holder of a certificate of authorization ceases to have any official representative, the certificate is *ipso facto* revoked, and the partnership, association of persons or corporation shall not practise professional engineering until a new certificate of authorization is issued.

Reprimand of licensee, etc.

(6) Where the council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section or has been guilty of conduct that would, in the case of a member or licensee, have been professional misconduct, the council may reprimand the holder or suspend or revoke the certificate of authorization.

Application of ss. 24-26

(7) Sections 24, 25 and 26 apply with necessary modifications to the refusal to issue a certificate of authorization and to the revocation or suspension of a certificate of authorization. R.S.O. 1970, c. 366, s. 20.

EXAMINATIONS

Board

21.—(1) The council shall appoint annually a board of examiners.

Central examining board

(2) The council may establish conjointly with the council of any association in one or more of the provinces or territories of Canada that has objects similar to those of the Association a central examining board and may delegate to the central examining board all or any of the powers of the council respecting the examination of candidates for admission as members, but any examinations conducted by the central examining board shall be held in at least one place in Ontario. R.S.O. 1970, c. 366, s. 21.

REGISTRAR

Registrar to record members, etc.

22.—(1) The registrar shall register in a system of recording approved by the council the names of the members, the licensees, the assistants to professional engineers, and the graduates and the undergraduates.

Register to be correct

(2) The registrar shall keep the register correct and in accordance with this Act, the regulations and the by-laws.

Evidence of membership

(3) The certificate of the registrar respecting the registration of a person is *prima facie* evidence of the facts certified to therein.

(4) The registrar shall send to the Lieutenant Governor in Council quarterly as of the last days of March, June, September and December in each year a report containing, with respect to the immediately preceding three-month period, the names of the persons, Quarterly report

(*a*) who have been granted partial exemption from examinations;

(*b*) who have been granted no exemption from examinations;

(*c*) who have been refused permission to write examinations; or

(*d*) who have not been admitted to membership in the Association because,

(i) their experience in engineering work was not satisfactory to the council, or

(ii) they did not provide satisfactory evidence of good character,

giving, in each case, the reason for the decision, together with such further information and particulars with respect to such matters as the Lieutenant Governor in Council may require. R.S.O. 1970, c. 366, s. 22.

23.—(1) The registrar shall issue to each member admitted to the Association a certificate of membership signed by the president or a vice-president and by the registrar, and bearing the seal of the Association. Certificate of membership

(2) Every member shall keep his certificate of membership prominently displayed in his place of business. R.S.O. 1970, c. 366, s. 23. Certificate to be displayed

HEARINGS, UPON APPLICATION

24.—(1) Where an applicant for membership or a licence has met the academic and experience requirements, or an applicant for restoration of his name on the register has paid the required fees and has produced the required evidence of good character, and his application is refused, the council shall, upon the written request of the applicant received by the registrar within fifteen days of the receipt by the applicant of written notice of the refusal, conduct a hearing of the matter. Hearing where application for membership, etc., refused

Conduct of hearing

(2) Section 25 applies with necessary modifications to any hearing conducted under this section except that upon any such hearing the council may make findings of fact by such standards of proof as are commonly relied upon by reasonable and prudent men in the conduct of their own affairs. R.S.O. 1970, c. 366, s. 24.

HEARINGS, DISCIPLINARY

Powers of council to discipline members

25.—(1) Subject to subsection (2), where the council finds that a person who is a member or licensee is guilty of professional misconduct or has obtained registration as a member or has been issued a licence by reason of misrepresentation by such person, the council may by order do one or more of the following:

1. Reprimand such person and, if considered proper, direct that the fact of the reprimand be recorded on the register.

2. Suspend the membership or licence of such person for such time as the council considers proper and direct that the reinstatement of such membership or licence on the termination of such suspension be subject to such conditions, if any, as the council considers proper.

3. Direct that the imposition of any penalty be suspended or postponed for such period and upon such terms as the council considers proper and that at the end of such period and upon the compliance with such terms any penalty be remitted.

4. Direct that the membership or licence of such person be cancelled and that the name of such person be removed from the register.

5. Direct that the decision of the council be published in detail or in summary in the official journal of the Association or in such other manner or medium as the council considers appropriate in any particular case.

6. Direct that, where it appears that the proceedings were unwarranted, such costs as to the council seem just be paid by the Association to the member or licensee whose conduct was the subject of such proceedings.

Complaint and hearing

(2) The council shall not take any action under subsection (1) unless,

(*a*) a complaint under oath has been filed with the registrar and a copy thereof has been served on the person whose conduct is being investigated;

(*b*) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and

(*c*) the council has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so requests, has heard his evidence or evidence on his behalf and has reached the decision that he is guilty.

Power to take sworn evidence

(3) Any person presiding at a hearing may administer oaths to witnesses and require them to give evidence under oath.

Failure to appear

(4) If the person whose conduct is being investigated fails to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence.

Disciplinary hearings to be held *in camera*

(5) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the registrar before the day fixed for the hearing, the council shall conduct the hearing in public or otherwise as it considers proper.

Adjournments

(6) The council may adjourn any hearing at any time and from time to time.

Attendance of person being investigated

(7) A person whose conduct is being investigated, if present in person at the hearing, has the right to be represented by counsel or agent, to adduce evidence and to make submissions, and any such person may be compelled to attend and give evidence in the manner provided in subsection (10), but such person shall be advised of his right to object to answer any question under section 9 of the *Evidence Act* and section 5 of the *Canada Evidence Act*.

R.S.O. 1980, c. 145

R.S.C. 1970, c. E-10

Hearing of evidence

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by the *Evidence Act*.

Rules of evidence

(9) The rules of evidence applicable in civil proceedings are applicable at hearings, but at a hearing members of

the council may take notice of generally recognized technical or scientific facts or opinions within the specialized knowledge of members of the council if the person whose conduct is being investigated has been informed before or during the hearing of any such matters noticed and he has been given an opportunity to contest the material so noticed.

Summons to witness

(10) The president, a vice-president, the immediate past president or the registrar may, and the registrar upon application of a person whose conduct is being investigated shall, issue a summons in the form prescribed by regulation, commanding the attendance and examination of any person as a witness, and the production of any document the production of which could be compelled at the trial of an action, to appear before the council at the time and place mentioned in the summons and stating that failure to obey the summons will render the person liable to imprisonment on an application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of witness to appear, etc.

(11) If any person,

(*a*) on being duly summoned to appear as a witness makes default in attending; or

(*b*) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or

(*c*) does any other thing which would, if the council had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statements that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

Examination and cross-examination

(12) At a hearing the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively, and to cross-examine the witnesses opposed in interest.

Decisions

(13) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision.

Record

(14) A record shall be compiled for every hearing consisting of the complaint and the notice referred to in subsection (2), any intermediate rulings or orders made in the course of the proceedings, a transcript of the oral evidence, if a transcript has been prepared, such documentary evidence and things as were received in evidence and the decision and the reasons therefor, provided that documents and things received in evidence may be released to the persons tendering them when all appeals have been finally disposed of or the right to appeal has terminated.

Service of documents

(15) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him, but where it appears that service cannot be effected personally, the document may be served by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Association, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient.

Reinstatement after suspension

(16) Where a member or licensee has been suspended from practising under this section, he may, upon payment of all fees and other costs owing by him to the Association, apply to the council to be reinstated as a member or licensee, as the case may be, and the council may terminate the suspension of such member or licensee upon such terms as it considers proper.

Re-admission after expulsion

(17) A person whose membership or licence has been cancelled under this section may apply to the council for membership or for a licence, as the case may be, and the council shall, subject to subsection (18), hear the application and make such order as it considers proper and may include as a term of any such order such conditions as the council considers proper to be fulfilled before the applicant is admitted to membership or granted a licence or to be observed by such member or licensee thereafter.

Idem

(18) Except with the consent of the council, no application under subsection (17) shall be heard before the expiry of two years from the date of the cancellation of membership or licence or the date of the final disposition of any appeal.

Idem

(19) Upon a hearing for admission to membership or for the granting of a licence under subsection (17), the council shall follow, in so far as practicable, the procedure provided for in the case of a complaint under this section, and a former member or licensee has the same right of appeal from an order made by the council under subsection (17) as is provided in section 26.

Committee of council

(20) The council may appoint a committee to act for and on its behalf composed of not fewer than five members of the council, one of whom shall be the president, a vice-president or the immediate past president, and may delegate to the committee all or any of its powers and duties under this section upon such terms and conditions, if any, as the council considers proper, and a decision or order of the committee is the decision or order of the council.

Practice pending appeal

(21) Except in the case of professional misconduct constituting incompetence on the part of the person whose conduct was investigated, the suspension or cancellation of the membership or licence of a person whose conduct was investigated under this section does not become effective until any appeal has been finally disposed of or the right of appeal has terminated. R.S.O. 1970, c. 366, s. 25.

APPEAL

Appeal

26.—(1) Any person whom the council has refused to register for membership or whose name the council has refused to restore on the register or to whom the council has refused to issue a licence or who has been reprimanded or whose membership or licence is suspended or cancelled may appeal from the order of refusal, reprimand, suspension or cancellation to the Divisional Court within fifteen days from the day upon which he is served with the order of refusal, reprimand, suspension or cancellation.

Certified copies of papers

(2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the registrar shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence by the council and any committee thereof appointed pursuant to subsection 25 (20) in dealing with and disposing of the matter complained of.

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the registrar, the appeal shall be deemed to be abandoned. Failure to pay costs

(4) Notice of an appeal under this section shall be served upon the registrar, and the record shall consist of a copy, certified by the registrar, of the proceedings before the council or committee thereof, the evidence taken, the report of the council or committee thereof and all decisions, findings and order of the council or committee thereof in the matter. Procedure and record

(5) Upon the hearing of an appeal under this section, the Divisional Court may make such order as the court considers proper or may refer the matter or any part thereof back to the council with such directions as the court considers proper. Orders

(6) The Divisional Court may make such order as to the costs of the appeal as the court considers proper. R.S.O. 1970, c. 366, s. 26. Costs

OFFENCES

27.—(1) Every person, other than a member or a licensee, who, Offences, persons

(*a*) takes and uses orally or otherwise the title "Professional Engineer" or "Registered Professional Engineer" or uses any addition to or abbreviation of either such titles, or any word, name or designation that will lead to the belief that he is a professional engineer, a member or a licensee or, except as permitted by section 2, uses the title or designation "engineer" in such a manner as will lead to the belief that he is a professional engineer, a member or a licensee;

(*b*) advertises, holds himself out, or conducts himself in any way or by any means as a member or a licensee; or

(*c*) engages in the practice of professional engineering,

is guilty of an offence.

Idem

(2) Every person who,

(*a*) wilfully procures or attempts to procure registration under this Act for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration either verbal or written; or

(*b*) knowingly makes any false statement in any application or declaration signed or filed by him under this Act,

is guilty of an offence.

Offences, partnerships, associations and corporations

(3) Where a partnership, association of persons or corporation that has no subsisting certificate of authorization,

(*a*) practices professional engineering;

(*b*) uses orally or otherwise any name, title, description or designation that will lead to the belief that it is entitled to practice professional engineering; or

(*c*) advertises, holds itself out or conducts itself in any way or in such manner as to lead to the belief that it is entitled to practise professional engineering,

every member of the partnership, every member of the association or persons, or the corporation and every director thereof, is guilty of an offence.

Idem

(4) Where a partnership, association of persons or corporation that has a subsisting certificate of authorization practises professional engineering in contravention of this Act, every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Penalties

(5) Every person, member of a partnership, member of an association of persons, and every corporation and director thereof, who is guilty of an offence under this section is on conviction liable to a fine of not more than $1,000 or to imprisonment for a term of not more than six months, or to both.

Limitation of proceedings

(6) No proceedings shall be commenced for a contravention of any of the provisions of this section after two years from the date of the commission of such contravention. R.S.O. 1970, c. 366, s. 27.

LIMITATION OF ACTIONS

Limitation of actions

28.—(1) Except as provided in subsection (2), an action against a member or a licensee for negligence or malpractice in connection with professional services requested of him or rendered by him or under his direction or control shall be commenced within and not later than twelve months after the cause of action arose.

Extension

(2) The court in which an action mentioned in subsection (1) has been or may be brought may extend the period of limitation specified therein either before or after it has expired if the court is satisfied that to do so is just.

Does not apply to disciplinary proceedings

(3) This section does not apply to proceedings under section 25. R.S.O. 1970, c. 366, s. 28.

CHAPTER 395

Property and Civil Rights Act

Rule of decision

1. In all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as they stood on the 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the courts of Ontario shall be regulated by the rules of evidence established in England, as they existed on that day, except so far as such laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario. R.S.O. 1970, c. 367, s. 1.

CHAPTER 396

Provincial Auctioneers Act

Interpretation

1. In this Act,

(*a*) "Board" means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980, c. 270

(*b*) "Commissioner" means the Live Stock Commissioner;

(*c*) "licence" means a licence under this Act. 1971, c. 50, s. 69 (1), *part*; 1978, c. 100, s. 20 (1).

Licence, issue

2.—(1) The Commissioner shall issue a licence to sell pure-bred live stock only, by public auction in Ontario, to a person who makes application therefor and pays the prescribed fee unless, after a hearing, he is of opinion that,

(*a*) the applicant is not competent or does not have sufficient experience with and knowledge of pure-bred live stock to conduct public auctions of such live stock; or

(*b*) the past conduct of the applicant affords reasonable grounds for belief that he may not engage in such business in accordance with law and with honesty and integrity.

Fee

(2) Any person who resides in Ontario shall pay a fee of $50, and any person who does not reside in Ontario shall pay a fee of $100, for a licence. 1971, c. 50, s. 69 (1), *part*.

Revocation

3.—(1) The Commissioner may revoke a licence if, after a hearing, he is of opinion that the licensee or any person under his control or direction or associated with him in connection with his operations as a licensee has not carried on his business as an auctioneer in accordance with law and with honesty and integrity.

Suspension

(2) The Commissioner, by notice to a licensee and without a hearing, may suspend the licensee's licence where in the Commissioner's opinion it is necessary to do so for the immediate protection of the interests of persons dealing with the licensee and the Commissioner so states in such

notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether the licence should be revoked under this Act. 1971, c. 50, s. 69 (1), *part*.

Notice of hearing

4.—(1) Notice of a hearing by the Commissioner under section 2 or 3 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings in which the Commissioner holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 69 (1), *part*.

Variation of decision by Commissioner

5. Where the Commissioner has refused to issue or has revoked a licence pursuant to a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act. 1971, c. 50, s. 69 (1), *part*.

Appeal to Board

6.—(1) Where the Commissioner refuses to issue or revokes a licence, the applicant or licensee may, by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner, appeal to the Board.

Extension of time for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued or revoked and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of. 1971, c. 50, s. 69 (1), *part*. Effect of decision pending disposal of appeal

7.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act. Parties

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. Members making decision not to have taken part in investigation, etc.

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. Findings of fact R.S.O. 1980, c. 484

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing who was not present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. 1971, c. 50, s. 69 (1), *part*. Only members at hearing to participate in decision

8.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to court

(2) The Minister is entitled to appear, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

Records to be filed in court

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, constitutes the record on the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.

Effect of decision of Board pending disposal of appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1971, c. 50, s. 69 (1), *part*.

Term of licence

9. A licence under this Act remains in force only during the calendar year of its issue. R.S.O. 1970, c. 368, s. 2.

Municipal licence not required

10. A person holding a licence under this Act shall not be required to take out an auctioneer's licence in any municipality for the sale of pure-bred live stock. R.S.O. 1970, c. 368, s. 3.

CHAPTER 397

Provincial Court (Civil Division) Project Act

Interpretation

1. In this Act,

(*a*) "Advisory Committee" means the advisory committee referred to in section 8;

(*b*) "judge" means a judge of the Provincial Court appointed under section 4;

(*c*) "Provincial Court" means the Provincial Court (Civil Division) of The Municipality of Metropolitan Toronto;

(*d*) "rules" means the rules made under or adopted by this Act. 1979, c. 67, s. 1.

Purpose

2. The purpose of this Act is to enable the establishment and conduct of a project using a limited class of civil actions in The Municipality of Metropolitan Toronto for the development of simplified procedures and of methods of making civil remedies more accessible and reducing delays. 1979, c. 67, s. 2.

Provincial Court (Civil Division) established

3.—(1) There shall be a court of record in and for The Municipality of Metropolitan Toronto called the Provincial Court (Civil Division) of The Municipality of Metropolitan Toronto.

Presiding judges

(2) The Provincial Court shall be presided over by a judge of the Provincial Court appointed under section 4. 1979, c. 67, s. 3.

Appointment of judges

4. The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such judges of the Provincial Court as are considered necessary. 1979, c. 67, s. 4.

Senior judge

5. The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall appoint a judge as senior judge of the Provincial Court who shall have general supervision and direction over arranging the sittings of the Provincial Court and assigning judges for hearings in the Provincial Court, as circumstances require. 1979, c. 67, s. 5.

Jurisdiction

6.—(1) The jurisdiction of the Provincial Court shall be the same as the jurisdiction of small claims courts under the *Small* R.S.O. 1980, c. 476

Claims Courts Act or any other Act, except that in the Provincial Court the maximum claim or value of $1,000 set out in section 55 of the *Small Claims Courts Act* shall be $3,000 in each instance and not as set out therein.

Application of R.S.O. 1980, c. 476

(2) Except in so far as they are inconsistent with this Act or the rules, the *Small Claims Courts Act* and the rules and regulations thereunder apply in the same manner as if the Provincial Court and judges and officers thereof were small claims courts and judges and officers thereof and the proceedings in the Provincial Court were proceedings in a small claims court.

Exception

(3) Sections 15 and 104 of the *Small Claims Courts Act* do not apply where the action is for more than $1,000.

Divisions

(4) The divisions established under the *Small Claims Courts Act* in The Municipality of Metropolitan Toronto are continued as local divisions of the Provincial Court, subject to amendment by the rules, and an office of the Provincial Court shall be maintained in each local division, and the provisions of the *Small Claims Courts Act* respecting the territorial jurisdiction of a small claims court in a division apply in respect of the office of the Provincial Court in which proceedings are commenced and the action is conducted.

References in other Acts

(5) A reference in or under any Act to a small claims court or a judge thereof shall, in respect of The Municipality of Metropolitan Toronto, be deemed to be a reference to the Provincial Court or a judge thereof. 1979, c. 67, s. 6.

Continuation of action

7.—(1) A proceeding commenced in a small claims court in The Municipality of Metropolitan Toronto before the 30th day of June, 1980 shall be continued and disposed of in the Provincial Court.

Transfer of actions from county court and Supreme Court

(2) Where an action that is within the jurisdiction of the Provincial Court was commenced in the county court or in the Supreme Court before the 30th day of June, 1980 and no evidence has been heard in the action, the action shall, with the consent of the parties, be transferred to the Provincial Court in the manner prescribed by the rules. 1979, c. 67, s. 7.

Advisory Committee

8.—(1) There shall be an Advisory Committee composed of seven persons of whom one shall be the Deputy Attorney General, who shall be the chairman, one shall be the senior judge of the Provincial Court or his nominee and five shall be appointed by the Attorney General, of whom one shall be a county court judge and at least two shall be members of the Law Society of Upper Canada engaged in active litigation practice.

(2) The Deputy Attorney General may designate a member of the Advisory Committee who shall act as chairman during the absence of the Deputy Attorney General. Deputy chairman

(3) The Advisory Committee shall advise and make recommendations to the Attorney General on any matter concerning the establishment and operation of the Provincial Court and the practices and procedures therein that the Advisory Committee considers advisable or that is referred to it by the Attorney General. 1979, c. 67, s. 8. Duties

9.—(1) The Lieutenant Governor in Council may make such rules as are considered necessary and desirable for the establishment and operation of the Provincial Court and, without restricting the generality of the foregoing, may make rules, Rules

(*a*) on any matter in respect of which rules may be made under section 190 of the *Small Claims Courts Act* or section 116 of the *Judicature Act* but having application to the Provincial Court and matters and proceedings within its jurisdiction; R.S.O. 1980, cc. 476, 223

(*b*) providing for sittings of the Provincial Court to be held at places in The Municipality of Metropolitan Toronto outside the local division in which the action is commenced.

(2) Any rule made under subsection (1) may be general or particular in its application. Idem

(3) Where a rule made under subsection (1) is in conflict with a provision of any other Act or of the rules of any court, the rule shall prevail. 1979, c. 67, s. 9. Conflict

10. This Act is repealed on the 1st day of January, 1983. Repeal

CHAPTER 398

Provincial Courts Act

1. In this Act, Interpretation

(*a*) "judge" means a provincial judge appointed under this Act;

(*b*) "Judicial Council" means the Judicial Council for Provincial Judges referred to in section 7;

(*c*) "Minister" means the Attorney General. R.S.O. 1970, c. 369, s. 1; 1972, c. 1, s. 9 (7).

PART I

PROVINCIAL JUDGES

2. The Lieutenant Governor in Council on the recommendation of the Minister may appoint such provincial judges as he considers necessary. R.S.O. 1970, c. 369, s. 2. Appointment of judges

3.—(1) Every judge shall take and subscribe the following oath before a chief judge or a judge designated by him: Oath

> I,.....,
> do swear that I will truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of the Provincial Courts, so help me God.

and also the oath of allegiance as required by the *Public Officers Act*. R.S.O. 1980, c. 415

(2) The oath of office and oath of allegiance shall be transmitted forthwith to the Inspector of Legal Offices and shall be filed in his office. R.S.O. 1970, c. 369, s. 3. Filing of oaths

4.—(1) A judge may be removed from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if, Removal for cause

(*a*) the circumstances respecting the misbehaviour or inability are first inquired into; and

(*b*) the judge is given reasonable notice of the time and place for the inquiry and is afforded an opportunity,

by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

Inquiry

(2) For the purpose of making an inquiry under subsection (1), the Lieutenant Governor in Council may appoint one or more judges of the Supreme Court who shall make the inquiry and report thereon, and a judge so appointed has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980, c. 411

Order for removal

(3) An order removing a judge from office under this section may be made by the Lieutenant Governor in Council and the order and the report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session. R.S.O. 1970, c. 369, s. 4; 1971, c. 49, s. 18.

Retirement

5.—(1) Every judge shall retire upon attaining the age of sixty-five years.

Idem

(2) Notwithstanding subsection (1), a judge appointed as a full-time magistrate after the 1st day of July, 1941 and before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years.

Idem

(3) Notwithstanding subsection (1), a judge appointed as a full-time magistrate on or before the 1st day of July, 1941, shall retire upon attaining the age of seventy-five years.

Reappointment

(4) Upon attaining an age for retirement under subsection (1) or (2), a judge may be reappointed to hold office during pleasure but shall not hold office after attaining the age of seventy-five years. R.S.O. 1970, c. 369, s. 5.

Resignation

6. A judge may at any time resign his office in writing, signed by him and delivered to the Minister. R.S.O. 1970, c. 369, s. 6.

Judicial Council

7.—(1) The Judicial Council for Provincial Judges is continued and shall be composed of,

(*a*) the Chief Justice of Ontario, who shall be chairman;

(*b*) the Chief Justice of the High Court;

(*c*) the Chief Judge of the Provincial Courts (Criminal Division);

(*d*) the Chief Judge of the Provincial Courts (Family Division);

(*e*) the Treasurer of the Law Society of Upper Canada; and

(*f*) not more than two other persons appointed by the Lieutenant Governor in Council.

Staff

(2) Such officers and employees of the Judicial Council as are considered necessary shall be appointed under the *Public Service Act*. R.S.O. 1980, c. 418

Quorum

(3) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council. R.S.O. 1970, c. 369, s. 7.

Functions

8.—(1) The functions of the Judicial Council are,

(*a*) at the request of the Minister, to consider the proposed appointments of provincial judges and make a report thereon to the Minister;

(*b*) to receive complaints respecting the misbehaviour of or neglect of duty by judges or the inability of judges to perform their duties; and

(*c*) to take such action to investigate complaints as it considers advisable including the review thereof with the judge where appropriate, and to make such recommendations to the Minister with respect thereto as it sees fit.

Transmission to Chief Judge

(2) The chairman may transmit such complaints as he considers appropriate to the Chief Judge of the Provincial Courts (Criminal Division) or the Chief Judge of the Provincial Courts (Family Division).

Recommendation of inquiry

(3) The Judicial Council may recommend to the Lieutenant Governor in Council that an inquiry be held under section 4.

Advising Minister

(4) The proceedings of the Judicial Council shall not be public, but it may inform and advise the Minister respecting matters that it has investigated or reviewed.

Powers

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1980, c. 411

Liability for damages

(6) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer thereof or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his duty. R.S.O. 1970, c. 369, s. 8; 1971, c. 49, s. 18.

Jurisdiction

9.—(1) Every judge has jurisdiction throughout Ontario and,

(*a*) shall exercise all the powers and perform all the duties conferred or imposed upon a provincial judge by or under any Act of the Legislature or of the Parliament of Canada;

(*b*) has all the power and authority vested by or under any Act of the Legislature in a magistrate, two justices of the peace sitting together or a juvenile and family court or a judge thereof;

(*c*) subject to subsection (2), may exercise all the powers and perform all the duties conferred or imposed upon a magistrate, provincial magistrate or one or more justices of the peace under any Act of the Parliament of Canada;

(*d*) is *ex officio* a justice of the peace and commissioner for taking affidavits. R.S.O. 1970, c. 369, s. 9 (1).

Where procedures not provided

(2) Where jurisdiction is conferred on a judge, justice of the peace or provincial court, in the absence of express provision for procedures therefor in any Act, regulation or rule, the judge, justice of the peace or provincial court shall exercise the jurisdiction in any manner consistent with the due administration of justice. 1979, c. 5, s. 1.

Idem

(3) A judge shall not exercise the powers or perform the duties conferred or imposed upon a magistrate under Part XVI of the *Criminal Code* (Canada) unless,

R.S.C. 1970, c. C-34

(*a*) he is or has been a member of the bar of one of the provinces of Canada;

(*b*) he has acted as a provincial judge for a period of five years; or

(*c*) he was acting as a full-time deputy magistrate, magistrate or judge of the juvenile and family court immediately before the 2nd day of December, 1968,

and he is so designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 369, s. 9 (2).

Chief Judge

10.—(1) The Lieutenant Governor in Council may appoint a judge as Chief Judge of the Provincial Courts (Criminal Division) and a judge as Chief Judge of the Provincial Courts (Family Division). R.S.O. 1970, c. 369, s. 10 (1).

Chief Judge of provincial offences courts

(2) The Chief Judge of the Provincial Courts (Criminal Division) is chief judge of the provincial offences courts. 1979, c. 5, s. 2.

Associate chief judges

(3) The Lieutenant Governor in Council may appoint a judge as associate chief judge of the provincial courts (criminal division) and a judge as associate chief judge of the provincial courts (family division). 1977, c. 46, s. 1.

Duties

(4) Each Chief Judge shall have general supervision and direction over arranging the sittings of his courts and assigning judges for hearings in his courts, as circumstances require.

Idem

(5) In the arrangement of the courts and the assignment of judges thereto, regard shall be had to,

(*a*) the desirability of rotating the judges; and

(*b*) the greater volume of judicial work in certain of the counties and districts. R.S.O. 1970, c. 369, s. 10 (3, 4).

Senior judges

11. The Minister may designate a judge to be senior judge of such provincial courts (criminal division) or provincial courts (family division), or both, as are named in the designation. R.S.O. 1970, c. 369, s. 11.

Other employment

12.—(1) Subject to subsection (2), unless authorized by the Lieutenant Governor in Council, a judge shall not practise or actively engage in any business, trade or occupation but shall devote his whole time to the performance of his duties as a judge.

Idem

(2) A judge, with the previous consent of the Minister, may act as arbitrator, conciliator or member of a police commission. R.S.O. 1970, c. 369, s. 12.

Application of R.S.O. 1980, c. 406

13. The *Public Authorities Protection Act* applies to judges in the same manner and to the same extent as it applies to justices of the peace, without limiting any other defences available to judges under the law in respect of acts done in the execution of their duties. R.S.O. 1970, c. 369, s. 13.

PART II

PROVINCIAL COURTS (CRIMINAL DIVISION)

Provincial courts (criminal division)

14. There shall be in and for every county and district a court of record to be styled,

(*a*) in counties, the "Provincial Court (Criminal Division) of the County (*or* Judicial District *or* United Counties) of (*naming the county, etc.*)";

(*b*) in districts, the "Provincial Court (Criminal Division) of the District of (*naming the district*)",

presided over by a judge. R.S.O. 1970, c. 369, s. 14.

Judges preside

15. A judge shall exercise the powers and perform the duties vested in him as a magistrate, provincial magistrate or one or more justices of the peace under section 9 sitting in a provincial court (criminal division). R.S.O. 1970, c. 369, s. 15.

Sittings

16. The judges of the provincial court (criminal division) of each county or district may hold sittings at any place in the county or district designated by the Chief Judge of the Provincial Courts (Criminal Division). R.S.O. 1970, c. 369, s. 16.

Rules committee

17.—(1) The rules committee of the provincial courts (criminal division) is continued and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members as chairman.

Quorum

(2) A majority of the members of the rules committee constitutes a quorum.

Rules

R.S.C. 1970, c. C-34

(3) The rules committee of the provincial courts (criminal division) is a provincial court (criminal division) for the purpose of making rules of court under the *Criminal Code* (Canada). 1979, c. 5, s. 3.

PART III

PROVINCIAL OFFENCES COURTS

Provincial offences court

18.—(1) There shall be in every county and district a court of record to be styled,

(*a*) in counties, the "Provincial Offences Court of the County (*or* Judicial District *or* United Counties) of (*naming the county, etc.*)";

(*b*) in districts, the "Provincial Offences Court of the District of (*naming the district*)",

presided over by a judge or justice of the peace.

Jurisdiction

(2) Each provincial offences court has jurisdiction to hear, determine and dispose of,

(*a*) all matters in which jurisdiction is conferred by the *Provincial Offences Act*; and R.S.O. 1980, c. 400

(*b*) any other matter assigned to it by or under any statute. 1979, c. 5, s. 4, *part*.

Sittings

19—(1) The provincial offences courts may hold sittings at any place in the county or district designated by the chief judge of the provincial offences courts.

Idem

(2) Where a proceeding in which a provincial offences court has jurisdiction is conducted during the course of a sitting of the provincial court (criminal division) or provincial court (family division) in the same county or district, the proceeding shall be deemed to be conducted in the provincial offences court. 1979, c. 5, s. 4, *part*.

Penalty for contempt

20.—(1) Except as otherwise provided by statute, every person who commits contempt in the face of a provincial offences court is upon conviction liable to a fine of not more than $1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement to offender

(2) Before proceedings are taken for contempt under subsection (1), the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him of his right to show cause why he should not be punished.

Show cause

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he should not be punished.

Adjournment for adjudication of contempt

(4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day.

Adjudication by a judge

(5) Where a contempt proceeding is adjourned to another day under subsection (1), the contempt proceeding shall be heard and determined by the court presided over by a judge.

Arrest for immediate adjudication of contempt

(6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection (4), the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination.

Barring of agent in contempt

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he be barred from acting as agent in the proceeding in addition to any other punishment to which he is liable.

Appeals

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in proceedings commenced by certificate under Part I of the *Provincial Offences Act*.

R.S.O. 1980, c. 400

Enforcement

(9) The *Provincial Offences Act* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. 1979, c. 5, s. 4, *part*.

Penalty for disturbance outside courtroom

21. Any person who knowingly disturbs or interferes with the proceedings of a provincial offences court, without reasonable justification, while outside the courtroom is guilty of an offence and upon conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than thirty days, or to both. 1979, c. 5, s. 4, *part*.

Rules for provincial offences courts

22. Subject to the approval of the Lieutenant Governor in Council, the rules committee of the provincial courts (criminal division) may make rules regulating any matters relating to the practice and procedure of the provincial offences courts including, without limiting the generality of the foregoing,

(*a*) prescribing forms respecting proceedings in the court;

(*b*) prescribing any matter required to be or referred to as prescribed by the rules of the court;

(*c*) prescribing and regulating the proceedings under any Act that confers jurisdiction upon a provincial offences court or a judge or justice of the peace sitting therein. 1979, c. 5, s. 4, *part*.

PART IV

PROVINCIAL COURTS (FAMILY DIVISION)

Provincial courts (family division)

23.—(1) There shall be in and for every county and district, except the Judicial District of Hamilton-Wentworth, a court of record to be styled,

(*a*) in counties, the "Provincial Court (Family Division) of the County (*or* Judicial District *or* United Counties) of (*naming the county, etc.*)";

(*b*) in districts, the "Provincial Court (Family Division) of the District of (*naming the district*)",

presided over by a judge. R.S.O. 1970, c. 369, s. 17 (1); 1976, c. 85, s. 23.

Jurisdiction

(2) Each provincial court (family division),

(*a*) is a juvenile court for the purpose of dealing with juvenile delinquents so soon as the *Juvenile Delinquents Act* (Canada) is proclaimed in force in the county or district for which it was established, and such court has all the powers vested in a juvenile court under that Act; R.S.C. 1970, c. J-3

(*b*) has power to try any child charged with an offence against the laws of Ontario; and

(*c*) has power to deal with all cases where jurisdiction is conferred by any Act upon a juvenile court or a judge thereof or upon a juvenile and family court or a judge thereof or upon a provincial court (family division). R.S.O. 1970, c. 369, s. 17 (2).

Amendment to subs. (1)

(3) On the 1st day of July, 1982, subsection (1) is amended by striking out "except the Judicial District of Hamilton-Wentworth" in the second line. 1976, c. 85, s. 24.

Judge presides

24. A judge shall exercise the powers and perform the duties vested in him as a judge of the juvenile and family court under section 9 sitting in a provincial court (family division). R.S.O. 1970, c. 369, s. 18.

Sittings

25. The judges of the provincial court (family division) of each county or district may hold sittings at any place in the county or district designated by the Chief Judge of the Provincial Courts (Family Division). R.S.O. 1970, c. 369, s. 19.

Control of officers and staff

26. The officers and members of the staff of a provincial court (family division) shall act in accordance with the directions of the presiding judge of the court. R.S.O. 1970, c. 369, s. 20.

Interpretation

27.—(1) In this section and sections 29 and 30, "Minister" means the Minister of Community and Social Services.

Observation and detention homes established

(2) The Minister may establish, operate and maintain observation and detention homes upon such terms and conditions as the Minister considers necessary.

Idem

(3) A detention and observation home in existence on the 15th day of June, 1979 shall be deemed to have been established by the Minister under this section and to continue as an observation and detention home under this Act.

Agreements

(4) The Minister may, by written agreement or otherwise with any person upon such terms and conditions as may be agreed, provide for the establishment, operation and maintenance of observation and detention homes and for the provision of services in such observation and detention homes.

Appointment of Director

(5) The Minister may appoint one or more persons to act as a Director for the purpose of providing general supervision and direction over observation and detention homes. 1978, c. 71, s. 1.

Admission and discharge from observation and detention homes

R.S.C. 1970, cc. J-3, C-34

R.S.O. 1980, cc. 66, 508

28.—(1) Subject to the provisions of the *Juvenile Delinquents Act* (Canada), the *Criminal Code* (Canada), the *Child Welfare Act* and the *Training Schools Act*, no child shall be admitted to or discharged from an observation and detention home except by order of a judge of the provincial court (family division) or a judge of the Unified Family Court. 1978, c. 71, s. 2, *part*.

Amendment of subs. (1)

(2) On the 1st day of July, 1982, subsection (1) is amended by striking out "or a judge of the Unified Family Court" in the fifth and sixth lines. 1976, c. 85, s. 24.

Powers and duties of superintendent

29.—(1) There shall be a superintendent for each observation and detention home established under section 27 or designated under section 30 who shall perform the duties imposed and may exercise the powers conferred upon the superintendent by the Minister or a Director appointed by the Minister under subsection 27 (5).

Superintendent to have care, custody and control

(2) The superintendent of an observation and detention home shall have the temporary care, custody and control of a child committed to or placed in the observation and

detention home, other than a child detained under Part II of the *Child Welfare Act* or who is a Crown ward under the *Training Schools Act*, during the period of time that the child remains in the observation and detention home. R.S.O. 1980, cc. 66, 508

Apprehension of child

(3) A police officer, a superintendent of an observation and detention home or any other person designated by the superintendent who has reasonable and probable grounds to believe that a child committed to or placed in the observation and detention home has left the observation and detention home prior to the child's discharge therefrom without the consent of,

(*a*) the superintendent;

(*b*) where the child has been detained under Part II of the *Child Welfare Act*, the children's aid society having care, custody and control of the child; R.S.O. 1980, c. 66

(*c*) where the child is a Crown ward under the *Training Schools Act*, the area administrator having care, custody and control of the child, R.S.O. 1980, c. 508

may apprehend the child with or without a warrant and arrange for the child to be brought back to the observation and detention home.

Warrant to apprehend child

(4) A warrant referred to in subsection (3) may be issued by a justice of the peace on information laid before the justice on oath that the child has left the observation and detention home without the consent of the superintendent or the children's aid society or area administrator referred to in subsection (3), as the case may be.

Right of entry

(5) A person authorized by a warrant issued under subsection (4) may enter, if need be by force, any house, building or other place specified in the warrant and may search for and remove the child therefrom. 1978, c. 71, s. 2, *part*.

Detention homes

30. The Minister may designate any place, house, home or institution a detention home within the meaning of the *Juvenile Delinquents Act* (Canada) and such detention home shall be deemed to be an observation and detention home under this Act. 1978, c. 71, s. 3. R.S.C. 1970, c. J-3

Powers of probation officers

31. Every probation officer appointed for a provincial court (family division) has, while acting in the discharge of his duties, all the powers of a police constable. R.S.O. 1970, c. 369, s. 24.

Rules committee

32.—(1) The rules committee of the provincial courts (family division) is continued and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members as chairman.

Quorum

(2) A majority of the members of the rules committee constitutes a quorum. R.S.O. 1970, c. 369, s. 26 (1, 2).

Rules

(3) Subject to the approval of the Lieutenant Governor in Council, the rules committee of the provincial courts (family division) may make rules regulating any matters relating to the practice and procedure of the courts, including, without limiting the generality of the foregoing,

(*a*) regulating the duties of officers of the courts;

(*b*) regulating the costs of proceedings in the courts;

(*c*) providing for the taxation of costs and prescribing tariffs therefor;

(*d*) prescribing and regulating the proceedings under any Act that confers jurisdiction upon the courts or a judge sitting therein;

(*e*) governing the payment, transfer or deposit into, or in, or out of, any court of any money or property, or to the dealing therewith;

(*f*) allowing for service out of Ontario. R.S.O. 1970, c. 369, s. 26 (3); 1977, c. 46, s. 2 (1).

Idem

(4) Where provisions in respect of practice or procedure are contained in any Act, rules may be made adding to or modifying such provisions to any extent that is considered necessary for the equitable despatch of the business of the court unless that power is expressly excluded. R.S.O. 1970, c. 369, s. 26 (4).

Costs
R.S.O. 1980, c. 223

(5) Section 80 of the *Judicature Act* applies to the provincial court (family division) and to judges presiding in the court. 1977, c. 46, s. 2 (2).

PART V

GENERAL

Clerk

33.—(1) There shall be a clerk for each provincial court (criminal division) and each provincial court (family division) who shall act under the direction and supervision of the judge. R.S.O. 1970, c. 369, s. 27 (1).

(2) The clerk of a provincial court (criminal division) is the clerk of the provincial offences court of the same county or district. 1979, c. 5, s. 5. Idem

(3) Such officers, clerks and employees as are considered necessary shall be appointed for provincial courts under the *Public Service Act*. R.S.O. 1970, c. 369, s. 27 (2). Officers and employees R.S.O. 1980, c. 418

34.—(1) The Lieutenant Governor in Council may make regulations, Regulations

(*a*) specifying the returns to be made by judges and Chief Judges;

(*b*) providing for the safekeeping, inspection and destruction of books, documents and papers of provincial courts and judges;

(*c*) fixing the remuneration of judges;

(*d*) providing for the benefits to which judges are entitled, including,

(i) leave of absence and vacations,

(ii) sick leave credits and payments in respect of such credits,

(iii) pension benefits for judges and their widows and surviving children,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as judges under this Act were entitled under the *Public Service Act* or the *Public Service Superannuation Act* at the time of their appointment under this Act; R.S.O. 1980, cc. 418, 419

(*e*) providing for the appointment and employment of stenographic reporters to take down evidence before judges, and fixing their fees, expenses and other forms of remuneration;

(*f*) prescribing the duties of Chief Judges;

(*g*) prescribing the functions of and providing for the management of detention and observation homes, detention homes, and diagnostic clinics under this Act;

(*h*) prescribing additional powers and duties of superintendents of observation and detention homes;

(*i*) governing the procedures for admission to and discharge of children from observation and detention homes or any class thereof;

(*j*) defining "services" for the purposes of section 27 and prescribing the terms and conditions upon which such services may be provided;

(*k*) prescribing the classes of payments by way of provincial aid to any observation and detention home and the methods of determining the amounts of payments and providing for the manner and time of payment and the terms and conditions of the payment thereof and the suspension and withholding of payments and for the making of deductions from payments;

(*l*) prescribing the duties of the officers and employees of the staffs of provincial courts or of any class of such officers or members;

(*m*) providing for a system of statistical records relating to provincial courts;

(*n*) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 369, s. 28 (1); 1978, c. 71, s. 5.

Idem

(2) Any regulation made under subsection (1) may be general or particular in its application. R.S.O. 1970, c. 369, s. 28 (2).

CHAPTER 399

Provincial Land Tax Act

1. In this Act, Interpretation

(*a*) "collector" means the Land Tax Collector appointed under this Act;

(*b*) "Deputy Minister" means the Deputy Minister of Revenue;

(*c*) "land" includes,

(i) land covered with water,

(ii) all trees and underwood growing upon land,

(iii) all mines, minerals, gas, oil, salt quarries, and fossils, in and under land,

(iv) all buildings, or any part of any building, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,

(v) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway, lane or other public communication or water, but not the rolling stock of a transportation system,

(vi) the interest in land of a tenant or occupant,

(vii) the interest of the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land;

(*d*) "Minister" means the Minister of Revenue;

(*e*) "Ministry" means the Ministry of Revenue;

(*f*) "municipality" includes a district, metropolitan or regional municipality;

(*g*) "officer" means a person who has powers or duties with respect to the administration of this Act;

(*h*) "owner" includes a tenant or occupant and any person owning or enjoying an interest in land and the holder of any licence, concession or contract under which there had been acquired from the Crown any right to be exercised in respect of, or over, or upon land;

(*i*) "person" includes a partnership, a body corporate or politic, a bridge authority, an agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

(*j*) "pipe line" means every pipe forming part of any system for the purpose of the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or any mixture or combination of the foregoing and includes,

(i) all valves, regulators, couplings, cathodic protection apparatus, protective coatings, casings, curbboxes, meters, and all incidental fastenings, attachments, appliances, apparatus and appurtenances,

(ii) all haulage, labour, engineering and overheads in respect of any such pipe line,

(iii) any section, part or branch of any such pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

and such other pipe lines as are prescribed, but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(*k*) "pipe line company" means a person, firm, partnership, association or corporation owning, controlling or operating a pipe line, all or any part of which is situate in Ontario;

(*l*) "prescribed" means prescribed in the regulations made under this Act;

(*m*) "register" means the Provincial Land Tax Register;

(*n*) "telegraph company" means a person, firm, partnership, association or corporation owning, controlling or operating a telegraph system or line, all or any part of which is situate in Ontario;

(*o*) "telephone company" means a person, firm, partnership, association or corporation owning, controlling or operating a telephone system or line, all or any part of which is situate in Ontario. R.S.O. 1970, c. 370, s. 1; 1972, c. 1, s. 91; 1973, c. 135, s. 1.

ADMINISTRATION

2. There shall be an officer known as the Land Tax Collector and such other officers as are considered necessary for the administration of this Act. R.S.O. 1970, c. 370, s. 2. Land Tax Collector

LIABILITY TO TAX, EXEMPTIONS

3.—(1) All land situate in territory without municipal organization is liable to assessment and taxation under this Act, subject to the following exemptions from taxation: Land assessable and taxable, exemptions

1. Land belonging to Canada or any province of Canada. Lands of Canada, etc.

2. Land held in trust for a band or body of Indians. Indian lands

3. Every place of worship and land used in connection therewith, every churchyard, and every cemetery or burying ground that is enclosed and actually and *bona fide* required, used and occupied for the interment of the dead, but not land rented or leased to a church or religious organization by a person other than another church or religious organization. Churches, etc.

4. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purpose of a university, high school, public or separate school or other educational institution Public educational institutions

supported in whole or in part by Provincial moneys, whether vested in a trustee or otherwise, only so long as such buildings and grounds are actually used and occupied by such institution.

Philanthropic or religious seminaries

5. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic or religious purposes, the whole profits from which are devoted or applied to such purposes, only so long as such buildings and grounds are actually used and occupied by such seminary.

Educational seminaries

6. The buildings and grounds not exceeding in the whole fifty acres of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for educational purposes, the whole profits from which are devoted or applied to such purposes, only so long as such buildings and grounds are actually used and occupied by such seminary, but such exemption does not extend to include any part of the land of such a seminary that is used for farming or agricultural pursuits and is worked on shares with any other person, or if the annual or other crops, or any part thereof, from such land are sold.

Boy Scouts and Girl Guides

7. Land owned, occupied and used exclusively by The Boy Scouts Association or The Canadian Girl Guides Association or by any provincial or local association or other local group in Ontario that is a member of either of such associations or is otherwise chartered or officially recognized by either of them.

Charitable institutions

8. Land owned, occupied and used exclusively by an incorporated charitable institution organized for the relief of the poor, The Canadian Red Cross Society, St. John Ambulance Association, or any similar incorporated institution conducted on philanthropic principles and not for the purpose of profit or gain, that is supported, in part at least, by public moneys.

Agricultural societies
R.S.O. 1980, c. 14

9. Land owned by an agricultural society under the *Agricultural Societies Act*;

Machinery

10. All machinery and equipment used for manufacturing or farming purposes, including the foundations on which they rest, but not including machinery and equipment to the extent that it is used, intended or

required for lighting, heating or other building purposes, or machinery owned, operated or used by a transportation system or by a person having the right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, lane or other public communication, public place or public water, any structure or other thing, for the purposes of a bridge or transportation system, or for the purpose of conducting steam, heat, water, gas, oil, electricity or any property, substance or product capable of transportation, transmission or conveyance for the supply of water, light, heat, power or other service.

11. Subject to subsection (2), land that is liable for the acreage tax under the *Mining Act*. Mining lands R.S.O. 1980, c. 268

12. All buildings, improvements, substructures, superstructures, machinery and fixtures erected, made or installed in or on any land for mining purposes. Mining buildings, etc.

13. The right of a licensee under the *Crown Timber Act* to cut timber under his licence. Timber licensees R.S.O. 1980, c. 109

14. The telephone and telegraph plant, poles and wires of a railway company that are used exclusively in the running of trains or for any other purpose of a railway, but not for commercial purposes, and the structures, substructures, superstructures, rails, ties and other property on railway lands that are used exclusively for railway purposes or incidental thereto, except stations, freight sheds, offices, warehouses, elevators, hotels, roundhouses and machine, repair or other shops. Railways

15. Land of a designated class that is declared by the Lieutenant Governor in Council to be exempt wholly or partially from taxation under this Act. Further exemptions

16. The buildings and grounds of an athletics field, an outdoor swimming pool, an outdoor skating rink or a community hall owned by a board as defined in the *Education Act* and having jurisdiction only in territory without municipal organization and in respect of which a grant has been made under the *Community Recreation Centres Act*. Community centres R.S.O. 1980, cc. 129, 80

17. Land belonging to any municipality or vested in or controlled by any public commission or local Municipal property, etc.

R.S.O. 1980, c. 303

board as defined by the *Municipal Affairs Act*, wherever situate and whether occupied for the purposes thereof or unoccupied but not when occupied by a tenant or lessee who is liable to taxation under this Act.

Public hospitals

18. Buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a public hospital receiving aid under the *Public Hospitals Act*, and all land owned and used by such a public hospital for farming purposes, but no land is exempt from assessment and taxation by virtue of this paragraph when occupied by any tenant or lessee who is liable to taxation under this Act. R.S.O. 1970, c. 370, s. 3 (1); 1973, c. 135, s. 2 (2).

R.S.O. 1980, c. 410

Exception

(2) Paragraph 11 of subsection (1) does not apply where the land or any part of it,

(*a*) is used for a purpose other than mining, or, if used for mining purposes, is also used for any other purpose; or

(*b*) is land upon which there is timber, other than Crown timber, and the average value of such timber is more than $2 an acre. R.S.O. 1970, c. 370, s. 3 (2).

ASSESSMENT

Valuation of land

4.—(1) The assessed value to be placed upon land for the purposes of this Act is the price that it might be expected to bring if offered for sale in the open market by a person who is solvent.

Easements

(2) Subject to section 10, where an easement is appurtenant to land situate in territory without municipal organization, the easement shall be assessed in connection with and as part of the land at the added value it gives to the land as the dominant tenement, and the assessment of the land that, as the servient tenement, is subject to the easement shall be reduced accordingly.

Restrictive covenant

(3) A restrictive covenant running with land shall be deemed to be an easement within the meaning of subsection (2).

(4) Where land is laid out and used as a lane and is subject to a right of way, its value shall be apportioned among the various parcels to which the right of way is appurtenant and shall be included in the assessment of such parcels. R.S.O. 1970, c. 370, s. 4. Lane used as right of way

5.—(1) Every assessment made under the predecessor of this Act or under this Act continues in effect until varied by re-assessment or appeal as hereinafter provided. Existing assessments

(2) The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act and shall forthwith notify the owner of the land of the assessment or the amendment. R.S.O. 1970, c. 370, s. 5. Amendment of assessment

6. The collector shall keep a Provincial Land Tax Register in which shall be entered the name and address of every owner of land to which this Act applies, the amount of the assessment of the land and such other particulars as the collector deems requisite. R.S.O. 1970, c. 370, s. 6. Provincial Land Tax Register

7. The collector or any other officer may, in the performance of his duties under this Act, search and inspect books, plans and documents in land registry offices, and no charge shall be made by and no fee is payable to a land registrar for any such search or inspection. R.S.O. 1970, c. 370, s. 7. Right to search land registry offices

8.—(1) The collector, any other officer and the judge of the county or district court may, in the performance of their duties under this Act, enter into or upon land situate in territory without municipal organization and shall at all reasonable times and upon reasonable request be given free access for the purposes of this Act to all such land and to all parts of every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to such land. Right of access

(2) Every adult person present on land when any person referred to in subsection (1) visits the land in the performance of his duties shall upon request give to such person all the information in his knowledge that will assist such person in the performance of his duties under this Act. R.S.O. 1970, c. 370, s. 8. Information

Statement of owner hereafter acquiring land

9.—(1) Every person who becomes the owner of land situate in territory without municipal organization shall, within thirty days of becoming the owner of such land, notify the collector in writing giving his name and address, the name and address of the previous owner, a description of the land acquired, the purchase price paid where the land was purchased, or the rent paid where the land is rented, or the fee paid where the land is held under a licence.

Notice of improvements

(2) Upon the erection or the placing upon, in, over, under or the affixing to land situate in territory without municipal organization of any building, structure, machinery, fixture or other improvement, the owner shall forthwith notify the collector in writing thereof.

Return

(3) The collector may at any time mail a form of return in the prescribed form to any owner of land to which this Act applies, and such owner shall complete and return it within thirty days from the date of mailing by the collector. R.S.O. 1970, c. 370, s. 9.

PIPE LINES

Assessment and taxation of pipe lines

10.—(1) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Rates

(2) Notwithstanding any other provision of this Act but subject to subsection (3), a pipe line shall be assessed for taxation purposes at the following rates:

Size of Pipe				Assessment per Foot of Length
¾″	Nominal inside diameter			$ .07
1″	"	"	"	.09
1¼″	"	"	"	.11
1½″	"	"	"	.13
2″ and 2½″	"	"	"	.17
3″	"	"	"	.46
4″ and 4½″	"	"	"	.55
5″ and 5⅝″	"	"	"	.83
6″ and 6⅝″	"	"	"	.98
8″	"	"	"	1.24
10″	"	"	"	1.55
12″	"	"	"	2.31

Size of Pipe			Assessment per Foot of Length
14″	Outside diameter		$ 2.34
16″	"	"	2.35
18″	"	"	2.67
20″	"	"	2.96
22″	"	"	3.25
24″	"	"	3.56
26″	"	"	3.69
28″	"	"	3.85
30″	"	"	4.03
32″	"	"	4.24
34″	"	"	4.46
36″	"	"	4.72

Pipe lines installed before 1940

(3) A pipe line installed before 1940 shall be assessed for taxation at the rates set forth in subsection (2) but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of the assessed value of the pipe line, with a maximum depreciation of 50 per cent.

Pipe lines installed after 1939

(4) A pipe line installed during or after 1940 shall be assessed for taxation at the rates set forth in subsection (2), with no allowance for depreciation.

Pipe lines removed and installed in another location

(5) A pipe line removed from one location and re-installed in another location shall, where depreciation is applicable, continue to be depreciated in accordance with subsection (3) as though remaining in its original location.

Pipe lines abandoned

(6) A pipe line that has been abandoned in any year ceases to be liable for the tax effective with the year next following the year in which the pipe line was abandoned. R.S.O. 1970, c. 370, s. 10 (1-6).

Liability to tax on pipe line on exempt land

(7) Where a pipe line is located on, in, under, along or across a highway or any lands, other than lands held in trust for a band or body of Indians, exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section. R.S.O. 1970, c. 370, s. 10 (7); 1973, c. 135, s. 3.

Pipe lines on boundaries

(8) Where a pipe line is placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such pipe line

shall be assessed as if half of it were situate entirely within the former and half of it were situate entirely within the latter.

Valuation of land occupied by pipe line

(9) Land that is liable to the tax under this Act shall not have a lesser or greater assessment by reason of there being a pipe line located on, in, under, along or across it, nor shall it have a lesser or greater assessment by reason of the abandonment of the pipe line. R.S.O. 1970, c. 370, s. 10 (8, 9).

TELEPHONE AND TELEGRAPH LINES

Assessment and taxation of telephone and telegraph lines

11.—(1) For the purpose of the tax under this Act, a telephone line or part thereof, or a telegraph line or part thereof, situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Assessment of telephone lines

(2) Notwithstanding any other provision of this Act and subject to subsections (3) and (6), a telephone line or part thereof shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use on the 31st day of December next preceding the year for which the tax is payable, at the rate of $135 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use on such 31st day of December, at the rate of $7.50 per mile.

Idem

(3) Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, notwithstanding any other provision of this Act but subject to subsection (6), its telephone lines shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the year for which the tax is payable, at the rate of $50 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on such 31st day of December, at the rate of $7.50 per mile.

Computation of length of circuit

(4) In computing the length of telephone circuits placed or strung on poles or other structures or in conduits,

(*a*) a circuit that does not exceed twenty-five miles in length that is not used as a connecting circuit between two or more central exchange switchboards shall not be included; and

(*b*) every circuit regardless of its length that connects two or more central exchange switchboards shall be included.

Assessment of telegraph lines

(5) Notwithstanding any other provision of this Act but subject to subsection (6), a telegraph line or part thereof shall be assessed a sum equal to $40 for every mile of length of one wire placed or strung on the poles or other structures or in conduits in use on the 31st day of December next preceding the year for which the tax is payable, and a sum equal to $5 per mile for each additional wire so placed or strung on such 31st day of December.

Telegraph and telephone plant of railways

(6) Notwithstanding any other provision of this Act, the telephone and telegraph plant, poles and wires of a railway company that are used in whole or in part for commercial purposes shall be assessed at $5 per mile in the manner hereinbefore mentioned.

Measurement of wires

(7) In the computation of the length of telegraph wires and additional wires, the wires of all branch and loop lines that do not exceed twenty-five miles shall not be included.

Idem

(8) In the measurement of such additional wires or circuits, the length of every telegraph wire and every telephone circuit placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, shall be computed.

Poles and wires on boundary of land to which this Act applies

(9) Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such poles, structures, conduits or wires shall be assessed as if half of them were situate entirely within the former and half of them were situate entirely within the latter. R.S.O. 1970, c. 370, s. 11 (1-9).

Returns by telegraph and telephone companies

(10) Every telegraph and telephone company doing business in Ontario shall, in respect of its wires and circuits in territory without municipal organization, on or before the 1st day of March in each year, transmit to the collector a statement in writing showing,

(*a*) the length in miles of one wire or of one circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without muni-

cipal organization that adjoin townships with municipal organization) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment; and

(*b*) the length in miles of one exempt wire or of one exempt circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional exempt wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment. 1973, c. 135, s. 4.

RAILWAYS

Returns

12.—(1) On request of the collector, a railway company shall, in respect of its land in territory without municipal organization, make a return to the collector showing the information required to be furnished to the assessment commissioner or clerk of a township under subsection 29 (1) of the *Assessment Act*.

R.S.O. 1980, c. 31

Assessment of railway lands

(2) Notwithstanding any other provision of this Act but subject to paragraph 14 of subsection 3 (1),

(*a*) the roadway or right-of-way of a railway company shall be assessed at the actual value thereof according to the average value of land in the locality;

(*b*) the vacant land of a railway company shall be assessed at its value as other vacant lands are assessed under this Act;

(*c*) the structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by a company (not including rolling stock and not including tunnels or bridges in, over, under or forming part of any highway) upon, in, over, under or affixed to any highway, street or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as they would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value, including the non-user of such property; and

(*d*) the land of a railway company not designated in clauses (*a*), (*b*) and (*c*) in actual use and occupation by the company shall be assessed at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises. R.S.O. 1970, c. 370, s. 12.

PUBLIC UTILITIES

Interpretation R.S.O. 1980, c. 303

13.—(1) In this section, "public utility" means a public utility as defined in the *Municipal Affairs Act* and includes parking facilities on land owned by a municipal corporation or by a municipal parking authority established under any general or special Act.

Idem

(2) Notwithstanding any other provision of this Act, the land, other than buildings, fixtures and structures, of a public utility shall be assessed at the actual value thereof according to the average value of land in the locality, and there shall be no assessment of machinery whether fixed or not nor of the foundation on which it rests. R.S.O. 1970, c. 370, s. 13; 1972, c. 1, s. 104 (6).

MINIMUM ASSESSMENT OF LAND

Interpretation

14.—(1) In this section, "land" has the meaning given to it by section 1, but does not include buildings, fixtures, machinery or structures erected or placed upon, in, over or under the land or affixed thereto.

Minimum assessment of land

(2) Notwithstanding subsection 4 (1) and subject to subsection (3), land shall be assessed at not less than $4 an acre or part of an acre.

Idem

(3) Notwithstanding subsection 4 (1), land that is rock barrens, muskeg or covered with water shall be assessed at not less than $2 an acre or part of an acre. R.S.O. 1970, c. 370, s. 14.

ASSESSMENT APPEALS

Complaints

15.—(1) Any person complaining of,

(*a*) an error or omission in regard to himself as having been,

(i) wrongly inserted in or omitted from the register, or

(ii) under-assessed or over-assessed by the collector in the register; or

(*b*) the apportionment of arrears of tax made by the collector under section 32,

may personally or by his agent make a complaint in the prescribed form to the collector.

Time for complaint

(2) The complaint shall be made to the collector on or before the 1st day of May in the year of the triennial sitting of the judge of the county or district court as hereinafter provided. R.S.O. 1970, c. 370, s. 15.

Notice of hearing of complaints

16. Where a complaint is made to the collector within the time limited by subsection 15 (2) and remains unresolved, the collector shall, at least fifteen days before the date of the hearing of the complaint, notify the person who has made the complaint of the time and place at which a judge of the county or district court will sit for the purpose of hearing such complaint. R.S.O. 1970, c. 370, s. 16.

Triennial sittings

17.—(1) For the purpose of hearing unresolved complaints, a judge of the county or district court of the county or district in which the land is situate shall sit,

(*a*) in the territorial districts of Kenora, Rainy River and Thunder Bay in the year 1980 and in every third year thereafter;

(*b*) in the territorial districts of Algoma, Cochrane, Sudbury and Timiskaming in the year 1981 and in every third year thereafter; and

(*c*) in the parts of Ontario not mentioned in clauses (*a*) and (*b*) in the year 1982 and in every third year thereafter.

Special sittings

(2) Notwithstanding subsection (1), where in the opinion of the Minister unusual or special circumstances require it, an

unresolved complaint made under section 15 may, subject to section 16, be heard at any time at a special sitting. R.S.O. 1970, c. 370, s. 17.

Hearing

18.—(1) The judge shall attend at the time and place arranged by the judge and the collector for the hearing of unresolved complaints, but, if the complaints have been resolved, the sitting may be cancelled.

Where complainant appears

(2) The judge, after hearing the complainant and the collector or his agent and any evidence adduced, shall confirm, decrease or increase the assessment for the year in which the complaint was made and for each year thereafter up to and including the year in which the appeal is heard.

Failure of complainant to appear

(3) Where a complainant who has been notified of the time and place of the sitting under section 16 fails to appear at the sitting, the judge may dismiss the complaint. R.S.O. 1970, c. 370, s. 18 (1-3).

Assessment by judge final

(4) Subject to subsections (5) and (6), the assessment as determined by the judge is final and binding and is not open to question or dispute in any action or proceeding or otherwise.

Stated case

(5) The judge, upon request of the complainant or the collector within thirty days after the determination of the assessment by him, shall state a case in writing to the Divisional Court upon any question of law arising in the assessment.

Powers of court

(6) Where a case is stated to the Divisional Court under this section, the court shall hear the case and may vary or annul the assessment or may refer it back to the judge for reassessment in accordance with the judgment of the court. 1971, c. 50, s. 70 (1).

Powers of judge

19. The judge hearing any complaint under section 15 has the like powers, as nearly as may be, as in the case of a judge hearing appeals under the *Assessment Act* from decisions of the Assessment Review Court, and, subject to this Act, the procedure for the hearing of complaints under this Act shall be, as nearly as may be, the same as the procedure under the *Assessment Act* for the hearing of appeals from decisions of the Assessment Review Court, except that the judge shall hear only those complaints that are included in the list of unresolved complaints required by section 20 unless the collector consents to the judge's hearing of any complaint that is not included on that list. 1973, c. 135, s. 5.

R.S.O. 1980, c. 31

Attendance of collector at hearing of complaints

20. The collector or his agent shall attend at every sitting of the judge and shall have with him at the sitting a list of the unresolved complaints containing the names of the complainants and the assessments of their land, and he shall correct, alter and amend the register in accordance with the directions of the judge. R.S.O. 1970, c. 370, s. 20.

PAYMENT OF TAX

Annual tax

21.—(1) The tax under section 3 is payable annually at the appropriate prescribed rate upon the assessed value of the land.

Rates

(2) The rate or rates of the annual tax prescribed remain in force from year to year until changed.

Minimum tax

(3) The minimum annual tax imposed under this Act in respect of any land is $6. R.S.O. 1970, c. 370, s. 21.

Idem

(4) In determining for the purposes of subsection (3) the annual tax imposed under this Act, no account shall be taken of any tax imposed pursuant to the *Local Services Boards Act*. 1979, c. 82, s. 35.

R.S.O. 1980, c. 252

CROWN LANDS

Assessment of Crown lands

22.—(1) Notwithstanding paragraph 1 of subsection 3 (1), the tenant of land owned by the Crown where a rent or any valuable consideration is paid in respect of such land and the owner of land in which the Crown has an interest and the tenant of such land where rent or any valuable consideration is paid in respect of such land shall be assessed and taxed in the same way as if the land was owned or the interest of the Crown was held by any other person.

Interpretation

(2) For the purpose of subsection (1),

(*a*) "rent or any valuable consideration" shall be deemed to have been paid, in the case of an employee using land belonging to the Crown as a residence, where there is a reduction in or deduction from the salary, wages, allowances or emoluments of the employee because of such use or where such use is taken into consideration in determining the employee's salary, wages, allowances or emoluments;

(*b*) "residence" means a building or part of a building used as a domestic establishment in which persons usually sleep and prepare and serve meals;

(*c*) "tenant" includes any person who uses land belonging to the Crown, as or for the purposes of, or in connection with, his residence, irrespective of the

relationship between him and the Crown with respect to such use. R.S.O. 1970, c. 370, s. 22 (1, 2).

COLLECTION OF TAX

Tax bills

23.—(1) Except as otherwise provided in this Act, the tax imposed by this Act shall be for the calendar year and becomes due and is payable on the 15th day of March in the year for which it is imposed, and a tax bill shall be mailed by the collector to every owner of land subject to taxation at his latest known address on or before the 15th day of February in the year for which the tax is payable. R.S.O. 1970, c. 370, s. 23 (1); 1973, c. 135, s. 7.

Idem

(2) The tax bill shall show the assessed value of the land, the rate of taxation, the amount of the tax payable and such other information as may be prescribed. R.S.O. 1970, c. 370, s. 23 (2).

Penalty and interest on unpaid tax

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 5 per cent shall be added thereto and in addition such tax and penalty shall bear interest at the rate of 6 per cent per annum from such 1st day of April until the tax and penalty are paid, which interest shall be compounded annually on the 1st day of April of the year next following the date on which the tax was payable and on each 1st day of April thereafter that the tax or any part thereof remains unpaid, and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. R.S.O. 1970, c. 370, s. 24; 1973, c. 135, s. 8.

Additions to register

25.—(1) Where land becomes liable to assessment and taxation under this Act between the 1st day of January and the 29th day of November in any year, the collector may enter the land in the register for a portion of the amount of taxes that would have been payable under this Act for the year if the land had been liable to assessment and taxation for the whole of the year, and, subject to subsection 21 (3), that portion shall be in the ratio that the number of months remaining in the year after the land becomes liable to assessment and taxation bears to the number 12.

Amendments to register

(2) Where the value of land liable to assessment and taxation under this Act increases between the 1st day of January and the 29th day of November in any year, the collector may amend the assessment of the land in the register and enter in the register tax for the increase in the assessment for a portion of the year, and that portion shall be in the ratio that the number of months remaining in the year after the value increases bears to the number 12.

Where land omitted from the register

(3) If at any time it appears to the collector that, notwithstanding the receipt of a notice under section 9, land liable to assessment and taxation has been omitted from the register in whole or in part for the current year or for either or both of the next two preceding years, he may enter such land in the register as well for the arrears of the preceding year or years, if any, as for the tax for the current year.

Idem

(4) Where land liable to assessment and taxation is omitted from the register by reason of the failure of the owner of the land to give the notice required under section 9, the collector may enter such land in the register for the arrears of tax of each year back to and including the year in which such notice should have been given.

Idem

(5) For the purpose of determining the arrears of tax under subsection (3) or (4), the collector may assess the land at its current assessed value for each year in which arrears are owing.

Billing

(6) Where the collector enters tax or arrears of tax in the register under subsection (1), (2), (3) or (4), he may thereupon mail to the owner, at his latest known address, a tax bill for such tax or arrears of tax, and such tax or arrears of tax are due and payable within thirty days of the date of such bill. R.S.O. 1970, c. 370, s. 25 (1-6).

Penalty and interest on unpaid tax

(7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 5 per cent shall be added thereto and in addition such tax or arrears of tax and penalty shall bear interest at the rate of 6 per cent per annum from the due date until paid, which interest shall be compounded annually on the 1st day of April of the year next following the date on which the tax or arrears of tax was payable and on each 1st day of April thereafter that the tax or arrears of tax or any part thereof remains unpaid, and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. R.S.O. 1970, c. 370, s. 25 (7); 1973, c. 135, s. 9.

Tax, penalties and interest to be lien on land

26.—(1) Every tax, interest and penalty imposed by this Act is a special lien on the land upon or in respect of which such tax, interest or penalty is imposed in priority to every claim, privilege, lien or encumbrance, heretofore or hereafter created, of every person, and the lien and its priority are not lost or impaired by any neglect, omission or error of the Minister or the collector or of any other officer, clerk or servant appointed or assigned to any work in the course of the administration of this Act or by want of registration.

(2) The owner or any person entered in the register as the owner of any land is personally liable for all tax, interest and penalties imposed by this Act in respect of such land, and the collector may bring an action in his name of office for the recovery thereof in any court of competent jurisdiction. R.S.O. 1970, c. 370, s. 26. Owner liable for tax and penalties

27. In addition to the collection of arrears of tax by action as hereinbefore provided, the collector may distrain for the same and has the like powers in that regard as a collector of taxes for a municipal corporation. R.S.O. 1970, c. 370, s. 27. Collection by distress

DELIVERY OF NOTICES

28. Any complaint made under section 15 or any notice or return required by or given under this Act, other than a notice under subsection 33 (1) or (2), may be given by sending it by post-paid mail to the collector, or to the latest known address of the owner of the land or of any person interested in the land, as the case may be, and such notice or a notice by registered mail under subsection 33 (1) or (2) shall be deemed to have been received if it was so mailed. R.S.O. 1970, c. 370, s. 28. Delivery of notices

29. A tax bill shall be deemed to be delivered to an owner of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, agent or representative. R.S.O. 1970, c. 370, s. 29. Delivery of tax bills

30.—(1) Where land is owned by two or more persons, either jointly or otherwise, the collector may send any notice or tax bill issued under this Act to such part owner as is designated by the other part owners, and, where the part owners fail to designate a part owner for this purpose or where they fail to agree on which part owner should be designated, the collector may select a part owner to whom such notices and tax bills may be sent. Billing joint owners, etc.

(2) Where the collector designates the part owner to whom such notices and tax bills may be sent, he shall notify the other part owners of his designation. Idem

(3) Any notice or tax bill sent to the latest known address of the part owner designated under subsection (1) shall be deemed to have been received by the other part owners. R.S.O. 1970, c. 370, s. 30. Idem

REMISSION OF TAXES

Refunds, etc., on incorporation of municipality

31.—(1) The collector may reduce, refund or pay to the municipality any part of the tax under this Act on any land in respect of a year in which the land became part of a municipality.

Cancellation of arrears and remission of tax

(2) The collector may cancel any arrears of tax, interest or penalties in respect of land exempted from taxation under this Act or any predecessor of this Act or any regulations made hereunder or thereunder and may remit to any person any money paid by such person for any part of the current year or either or both of the next two preceding years as tax, interest or penalties under such Acts in respect of lands exempted from taxation under such Acts or regulations.

Idem

(3) Where the value of land liable to assessment and taxation under this Act decreases between the 1st day of January and the 29th day of November in any year, the collector, after amending the assessment of the land in the register, may cancel a portion of the arrears of tax on the decrease in the assessment or, without interest, may make a refund to the owner or give a credit to the owner to be applied to the following year's tax in the amount of the tax on the decrease in the assessment for a portion of the year, and any such portion shall be in the ratio that the number of months remaining in the year after the value decreases bears to the number 12. R.S.O. 1970, c. 370, s. 31.

APPORTIONMENT OF ARREARS

Apportionment

32.—(1) Where land in respect of which arrears of tax, interest or penalties are owing under this Act has been assessed in one block, upon the application by or on behalf of any person claiming to be the registered owner of one or more parcels of the land, the collector may, after giving notice of the application to the owner of the land entered in the register, apportion the arrears of tax, interest and penalties and the current year's tax upon such parcels in proportion to their relative assessed value as determined from the assessment shown in the register at the date of the application.

Idem

(2) The payment of the apportionment assigned to any parcel under subsection (1) is a satisfaction of the tax, interest and penalties thereon.

Idem

(3) Forthwith after an apportionment has been made, the collector shall enter it in the register, and thereafter each parcel of the land affected is liable only for the amount of tax,

interest and penalties apportioned or charged thereto, and is only liable for forfeiture for non-payment of the tax, interest and penalties so apportioned or charged against it. R.S.O. 1970, c. 370, s. 32.

FORFEITURE OF LANDS FOR ARREARS OF TAX

Notice of forfeiture

33.—(1) Where any part of the tax imposed under this Act remains unpaid for a period of two years or more, the collector may cause to be filed on or before the 30th day of November in any year in the proper land registry office a caution in the prescribed form, and thereupon he shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the proper land registry office to be the owner of the land in respect of which the default has been made and to every person appearing from such search or inquiry to have an interest therein, stating that, unless the total amount of tax, interest, penalties and costs due and payable under this Act is paid on or before the 30th day of November in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of December in the last-mentioned year by a certificate under the hand of the Minister or the Deputy Minister, and to the amount so due and payable there shall in every case be added and paid as costs the prescribed sum. R.S.O. 1970, c. 370, s. 33 (1); 1973, c. 135, s. 10 (1).

Idem

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period ot two years or more, the collector may send by registered mail a notice mentioned in subsection (1) to the person entered in the register as the owner of the land, and the sending of such notice shall be deemed to be compliance with the provisions of subsection (1). R.S.O. 1970, c. 370, s. 33 (2).

Publication of notice

(3) The collector shall cause to be prepared a list of the lands in respect of which notices under subsections (1) and (2) have been mailed and shall cause the list to be published in one issue of *The Ontario Gazette* not later than the 31st day of December next following the mailing of the notices and giving notice that, unless the total amount of tax, interest, penalties and costs shown therein is paid on or before the 30th day of November in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of December in the last-mentioned year by a certificate under the hand of the Minister or the Deputy Minister. R.S.O. 1970, c. 370, s. 33 (3); 1973, c. 135, s. 10 (2).

Declaration of forfeiture

(4) Where any part of the tax, interest, penalties and costs remains unpaid after the 30th day of November in the year next following the publication of the list in *The Ontario Gazette* under subsection (3), the Minister or the Deputy Minister by a certificate may, on and after the 1st day of December next following, declare the lands and every interest therein forfeited to and vested in the Crown, and thereupon, subject to subsections (5) and (6), the land and every interest therein vests in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture is declared, and the land may be granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario. R.S.O. 1970, c. 370, s. 33 (4); 1973, c. 135, s. 10 (3).

Mining lands

R.S.O. 1980, c. 268

(5) Where land, other than land held under a lease or licence of occupation, that is subject to forfeiture under this Act is also subject to the acreage tax under the *Mining Act*, such forfeiture shall be of the surface rights only.

Easements

(6) Where a dominant tenement is forfeited, any easement appurtenant thereto passes to the Crown and, where a servient tenement is forfeited, the forfeiture does not affect any easement to which the servient tenement is subject.

Registration of certificate

(7) The proper land registrar shall upon receipt of the certificate duly register the same, and it is absolute and conclusive evidence of the forfeiture to the Crown of the land and every interest therein so certified to be forfeited, and is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture.

R.S.O. 1980, cc. 445, 230 not to apply to forfeited lands

(8) Upon registration of a certificate of forfeiture in the land registry office, the *Registry Act* or the *Land Titles Act*, as the case may be, ceases to apply to the land forfeited, and the proper land registrar shall note that fact in his register in red ink. R.S.O. 1970, c. 370, s. 33 (5-8).

Land forfeited in error

34. Where land has been forfeited in error to the Crown under this Act or any predecessor of this Act, the Minister or the Deputy Minister, by a certificate under his hand, may revoke, cancel or annul the forfeiture in so far as it has reference to land forfeited to the Crown in error, and thereupon such land reverts to the owner of the land at the time of forfeiture, his heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture and still outstanding. R.S.O. 1970, c. 370, s. 34.

OFFENCES

Not making returns

35. Every owner who makes default in completing or making a return or notice required by this Act within the prescribed period is guilty of an offence and on conviction is liable to a fine of not more than $100 and an additional fine of $10 for each day during which default continues. R.S.O. 1970, c. 370, s. 35.

False statements

36. Every person who knowingly makes a false statement in any return or notice required by this Act is guilty of an offence and on conviction is liable to a fine of not more than $500. R.S.O. 1970, c. 370, s. 36.

Offence for obstructing collector, etc.

37. Every person who wilfully obstructs or interferes with the collector or any other officer or the county or district court judge in the performance of his duties under this Act is guilty of an offence and on conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 370, s. 37.

REGULATIONS

Regulations

38. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing any return, bill or other form required for the purposes of this Act;

(*b*) designating classes of land and declaring the same to be exempt, wholly or partially, from taxation under this Act;

(*c*) designating classes of land and prescribing the rate of tax applicable to each class;

(*d*) amending the table of rates set out in subsection 10 (2);

(*e*) designating pipes in addition to those mentioned in subclause 1 (*i*) (i) as pipe lines;

(*f*) prescribing the costs to be paid under subsection 33 (1);

(*g*) authorizing or requiring the Deputy Minister or any officer of the Ministry to exercise any power or perform any duty conferred or imposed by this Act upon the Minister, the Deputy Minister or the collector. R.S.O. 1970, c. 370, s. 38; 1971, c. 50, s. 70 (2); 1973, c. 135, s. 11.

CHAPTER 400

Provincial Offences Act

INTERPRETATION

Interpretation

1.—(1) In this Act,

(*a*) "certificate" means a certificate of offence issued under Part I or a certificate of parking infraction issued under Part II;

(*b*) "court" means a provincial offences court or, where jurisdiction in respect of the offence is conferred upon a provincial court (family division) by any other Act, the provincial court (family division);

(*c*) "judge" means a provincial judge;

(*d*) "justice" means a provincial judge or a justice of the peace;

(*e*) "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature;

(*f*) "police officer" means a chief of police or other police officer or constable but does not include a special constable or by-law enforcement officer;

(*g*) "prescribed" means prescribed by the rules of the provincial offences courts;

(*h*) "prosecutor" means the Attorney General or, where the Attorney General does not intervene, means the person who issues a certificate or lays an information and includes counsel or agent acting on behalf of either of them;

(*i*) "provincial offences officer" means a police officer or a person designated under subsection (2);

(*j*) "set fine" means the amount of fine set by the court for an offence for the purpose of proceedings commenced under Part I or II.

Designation of provincial offences officers

(2) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences. 1979, c. 4, s. 1.

Purpose of Act

2.—(1) The purpose of this Act is to replace the summary conviction procedure for the prosecution of provincial offences, including the provisions adopted by reference to the *Criminal Code* (Canada), with a new procedure that reflects the distinction between provincial offences and criminal offences.

R.S.C. 1970, c. C-34

Interpretation

(2) Where, as an aid to the interpretation of provisions of this Act, recourse is had to the judicial interpretation of and practices under corresponding provisions of the *Criminal Code* (Canada), any variation in wording without change in substance shall not, in itself, be construed to intend a change of meaning. 1979, c. 4, s. 2.

PART I

COMMENCEMENT OF PROCEEDINGS BY CERTIFICATE OF OFFENCE

Certificate of offence

3.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of an offence may be commenced by filing a certificate of offence alleging the offence in the office of the court named therein.

Issuance and service

(2) A provincial offences officer who believes that one or more persons have committed an offence may issue, by completing and signing, a certificate of offence certifying that an offence has been committed and,

(*a*) an offence notice indicating the set fine for the offence; or

(*b*) a summons,

in the form prescribed under section 13.

Service

(3) The offence notice or summons shall be served personally upon the person charged within thirty days after the alleged offence occurred.

Signature

(4) Upon the service of an offence notice or summons, the person charged shall be requested to sign the certificate of offence, but the failure or refusal to sign as requested does not invalidate the certificate of offence or the service of the offence notice or summons.

Certificate of service

(5) Where service is made by the provincial offences officer who issued the certificate of offence, he shall certify on the certificate of offence that he personally served the offence notice or summons on the person charged and the date of service.

Affidavit of service

(6) Where service is made by a person other than the provincial offences officer who issued the certificate of offence, he shall complete an affidavit of service in the prescribed form.

Certificate as evidence

(7) A certificate of service of an offence notice or summons purporting to be signed by the provincial offences officer issuing it or an affidavit of service under subsection (6) shall be received in evidence and is proof of personal service in the absence of evidence to the contrary.

Officer not to act as agent

(8) The provincial offences officer who serves an offence notice or summons under this section shall not receive payment of any money in respect of a fine, or receive the offence notice for delivery to the court. 1979, c. 4, s. 3.

Filing of certificate of offence

4. A certificate of offence shall be filed in the office of the court named therein as soon as is practicable after service of the offence notice or summons. 1979, c. 4, s. 4.

Dispute with trial

5.—(1) Where an offence notice is served on a defendant, he may plead not guilty by signing the not guilty plea on the offence notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver the offence notice to the office of the court specified in the notice.

Notice of trial

(2) Where an offence notice is received under subsection (1), the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. 1979, c. 4, s. 5.

Dispute without appearance

6.—(1) Where an offence notice is served on a defendant whose address as shown on the certificate of offence is outside the territorial jurisdiction of the court specified in the notice, and he wishes to dispute the charge but does not wish to attend or be represented at a trial, he may do so by signifying his intention on the offence notice and delivering the offence notice to the office of the court specified in the notice together with a written dispute setting out with reasonable particularity his dispute and any facts upon which he relies.

Disposition

(2) Where an offence notice is delivered under subsection (1), a justice shall, in the absence of the defendant, consider the dispute and,

(*a*) where the dispute raises an issue that may constitute a defence, direct a hearing; or

(*b*) where the dispute does not raise an issue that may constitute a defence, convict the defendant and impose the set fine.

Hearing

(3) Where the justice directs a hearing under subsection (2), the court shall hold the hearing and shall, in the absence of the defendant, consider the evidence in the light of the issues raised in the dispute, and acquit the defendant or convict the defendant and impose the set fine or such lesser fine as is permitted by law.

Application of section

(4) This section applies in such part or parts of Ontario as are prescribed by the regulations. 1979, c. 4, s. 6.

Plea of guilty with representations

7.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge but wishes to make submissions as to penalty, including the extension of time for payment, he may attend at the time and place specified in the notice and may appear before a justice sitting in court for the purpose of pleading guilty to the offence and making submissions as to penalty, and the justice may enter a conviction and impose the set fine or such lesser fine as is permitted by law.

Submissions under oath

(2) The justice may require submissions under subsection (1) to be made under oath, orally or by affidavit. 1979, c. 4, s. 7.

Payment out of court

8.—(1) Where an offence notice is served on a defendant and he does not wish to dispute the charge, he may sign the plea of guilty on the offence notice and deliver the offence notice and amount of the set fine to the office of the court specified in the notice.

Conviction

(2) Acceptance by the court office of payment under subsection (1) constitutes a plea of guilty whether or not the plea is signed and endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount of the set fine for the offence. 1979, c. 4, s. 8.

Failure to respond to offence notice

9. Where at least fifteen days have elapsed after the defendant was served with the offence notice and the offence notice has not been delivered in accordance with section 6 or 8 and a plea of guilty has not been accepted under section 7, the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of offence and,

(*a*) where the certificate of offence is complete and regular on its face, he shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence; or

(*b*) where the certificate of offence is not complete and regular on its face, he shall quash the proceeding. 1979, c. 4, s. 9.

Signature on plea

10. A signature affixed to the form of plea of guilty or not guilty on an offence notice, purporting to be that of the defendant, is *prima facie* proof that it is the signature of that person. 1979, c. 4, s. 10.

Reopening on failure of notice

11.—(1) Where the defendant has not had an opportunity to dispute the charge or to appear or be represented at a hearing for the reason that through no fault of his own the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under section 5 or proceed under section 7.

Certificate of striking out conviction

(2) Where a conviction is struck out under subsection (1), the justice shall give the defendant a certificate of the fact in the prescribed form. 1979, c. 4, s. 11.

Penalty

12.—(1) Where the penalty prescribed for an offence includes a fine of more than $300 or imprisonment and proceedings are taken under this Part, the provision for fine or imprisonment does not apply and in lieu thereof the offence is punishable by a fine of not more than the maximum fine prescribed for the offence or $300, whichever is the lesser.

Other consequences of conviction

(2) Where a person is convicted of an offence in a proceeding initiated by an offence notice,

(*a*) a provision in or under any other Act that provides for an action or result following upon a conviction of an offence does not apply to the conviction, except,

(i) for the purpose of carrying out the sentence imposed,

(ii) for the purpose of recording and proving the conviction,

(iii) for the purposes of the demerit point system under the *Highway Traffic Act*, and

R.S.O. 1980, c. 198

(iv) for the purposes of section 30 of the *Highway Traffic Act*; and

(*b*) any thing seized in connection with the offence after the service of the offence notice is not liable to forfeiture. 1979, c. 4, s. 12.

Regulations

13.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the form of certificates of offence, offence notices and summonses and such other forms as are considered necessary under this Part;

(*b*) authorizing the use in a form prescribed under clause (*a*) of any word or expression to designate an offence;

(*c*) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

Sufficiency of abbreviated wording

(2) The use on a form prescribed under clause (1) (*a*) of any word or expression authorized by the regulations to designate an offence is sufficient for all purposes to describe the offence designated by such word or expression.

Idem

(3) Where the regulations do not authorize the use of a word or expression to describe an offence in a form prescribed under clause (1) (*a*), the offence may be described in accordance with section 26. 1979, c. 4, s. 13.

PART II

COMMENCEMENT OF PROCEEDINGS FOR PARKING INFRACTIONS

Interpretation

14. In this Part, "parking infraction" means any unlawful parking, standing or stopping of a vehicle that constitutes an offence. 1979, c. 4, s. 14.

Date applicable to infractions under municipal by-laws

15.—(1) Subject to subsection (2), this Part does not apply in respect of parking infractions under by-laws of municipalities until a date two years after this Part comes into force.

Idem

(2) Subject to the approval of the Lieutenant Governor in Council, the council of a municipality, including a regional, district or metropolitan municipality, may by by-law declare that this Part applies in respect of parking infractions under by-laws in the municipality on a date earlier than the date determined under subsection (1). 1979, c. 4, s. 15.

Certificate of parking infraction and notice

16.—(1) In addition to the procedure set out in Part III for commencing a proceeding by laying an information, a proceeding in respect of a parking infraction may be commenced by filing a certificate of the parking infraction in the office of the court named therein, within thirty days after the alleged offence occurred.

Issuance and notice

(2) A provincial offences officer who believes from his personal knowledge that one or more persons have committed a parking infraction may issue, by completing and signing,

(*a*) a certificate of parking infraction certifying that a parking infraction has been committed; and

(*b*) a parking infraction notice indicating the set fine for the infraction,

in the form prescribed under section 21.

Service of notice on owner

(3) The issuing provincial offences officer may serve the parking infraction notice on the owner of the vehicle identified therein by affixing it to the vehicle in a conspicuous place at the time of the alleged infraction, or delivering it personally to the person having care and control of the vehicle at the time of the alleged infraction. 1979, c. 4, s. 16.

Dispute with trial

17.—(1) Where a parking infraction notice is served, the defendant may plead not guilty by signing the not guilty plea on the notice and indicate his desire in the form prescribed on the notice to appear or be represented at a trial and deliver it to the place specified in the notice.

Notice of trial

(2) Where a parking infraction notice is received under subsection (1), the clerk of the court shall, as soon as is practicable, give notice to the defendant and prosecutor of the time and place of the trial. 1979, c. 4, s. 17.

Payment out of court

18. Where the defendant does not wish to dispute the charge, he may deliver the notice and amount of the set fine to the place shown on the notice. 1979, c. 4, s. 18.

Failure to respond to parking infraction notice

19.—(1) Where at least fifteen days have elapsed after the defendant was served with the parking infraction notice and the parking infraction notice has not been delivered in

accordance with subsection 17 (1), the defendant shall be deemed to not wish to dispute the charge and a justice shall examine the certificate of parking infraction and where the justice is satisfied,

(*a*) that the certificate of parking infraction is complete and regular on its face;

(*b*) where the defendant is liable as owner, that he is the owner; and

(*c*) that payment has not been made under section 18,

the justice shall enter a conviction in the defendant's absence and without a hearing and impose the set fine for the offence.

Quashing proceeding

(2) Where the justice is not able to enter a conviction under subsection (1), he shall quash the proceeding.

Notice of fine

(3) The clerk of the court shall give notice to the person against whom a conviction is entered under subsection (1) of the date and place of the infraction, the date of the conviction and the amount of the fine, and the fine or any part of the fine not paid within fifteen days after the giving of the notice shall be deemed to be in default. 1979, c. 4, s. 19.

Reopening on failure of notice

20. Where the defendant has not had an opportunity to dispute the charge or appear or be represented at a hearing for the reason that, through no fault of his own, the delivery of a necessary notice or document failed to occur in fact, and where not more than fifteen days have elapsed since the conviction first came to the attention of the defendant, the defendant may attend at the court office during regular office hours and may appear before a justice and the justice, upon being satisfied by affidavit in the prescribed form of such facts, shall strike out the conviction, if any, and give the person appearing a notice of trial under subsection 17 (2) or accept a plea of guilty under section 18. 1979, c. 4, s. 20.

Regulations

21.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the form of certificates of parking infractions and parking infraction notices and such other forms as are considered necessary under this Part;

(*b*) authorizing the use in a form prescribed under clause (*a*) of any word or expression to designate a parking infraction;

(*c*) respecting any matter that is considered necessary to provide for the use of the forms under this Part.

Sufficiency of abbreviations

(2) The use on a form prescribed under clause (1) (*a*) of any word or expression authorized by the regulations to designate a parking infraction is sufficient for all purposes to describe the infraction designated by such word or expression.

Idem

(3) Where the regulations do not authorize the use of a word or expression to describe a parking infraction in a form prescribed under clause (1) (*a*), the offence may be described in accordance with section 26. 1979, c. 4, s. 21.

PART III

COMMENCEMENT OF PROCEEDING BY INFORMATION

Commencement of proceeding by information

22.—(1) In addition to the procedure set out in Parts I and II for commencing a proceeding by the filing of a certificate, a proceeding in respect of an offence may be commenced by laying an information.

Exception

(2) Where a summons or offence notice has been served under Part I, no proceeding shall be commenced under subsection (1) in respect of the same offence except with the consent of the Attorney General or his agent. 1979, c. 4, s. 22.

Summons before information laid

23. Where a provincial offences officer believes, on reasonable and probable grounds, that an offence has been committed by a person whom he finds at or near the place where the offence was committed, he may, before an information is laid, serve the person with a summons in the prescribed form. 1979, c. 4, s. 23.

Information

24.—(1) Any person who, on reasonable and probable grounds, believes that one or more persons have committed an offence, may lay an information in the prescribed form and under oath before a justice alleging the offence and the justice shall receive the information.

Idem

(2) An information may be laid anywhere in Ontario. 1979, c. 4, s. 24.

Procedure on laying of information

25.—(1) A justice who receives an information laid under section 24 shall consider the information and, where he considers it desirable to do so, hear and consider *ex parte* the allegations of the informant and the evidence of witnesses and,

(*a*) where he considers that a case for so doing is made out,

(i) confirm the summons served under section 23, if any,

(ii) issue a summons in the prescribed form, or

(iii) where the arrest is authorized by statute and where the allegations of the informant or the evidence satisfy the justice on reasonable and probable grounds that it is necessary in the public interest to do so, issue a warrant for the arrest of the defendant; or

(*b*) where he considers that a case for issuing process is not made out,

(i) so endorse the information, and.

(ii) where a summons was served under section 23, cancel it and cause the defendant to be so notified.

Summons or warrants in blank

(2) A justice shall not sign a summons or warrant in blank. 1979, c. 4, s. 25.

Counts

26.—(1) Each offence charged in an information shall be set out in a separate count.

Allegation of offence

(2) Each count in an information shall in general apply to a single transaction and shall contain and is sufficient if it contains in substance a statement that the defendant committed an offence therein specified.

Reference to statutory provision

(3) Where in a count an offence is identified but the count fails to set out one or more of the essential elements of the offence, a reference to the provision creating or defining the offence shall be deemed to incorporate all the essential elements of the offence.

Idem

(4) The statement referred to in subsection (2) may be,

(*a*) in popular language without technical averments or allegations of matters that are not essential to be proved;

(*b*) in the words of the enactment that describes the offence; or

(*c*) in words that are sufficient to give to the defendant notice of the offence with which he is charged.

More than one count

(5) Any number of counts for any number of offences may be joined in the same information.

Particulars of count

(6) A count shall contain sufficient detail of the circumstances of the alleged offence to give to the defendant reasonable information with respect to the act or omission to be proved against him and to identify the transaction referred to.

Sufficiency

(7) No count in an information is insufficient by reason of the absence of details where, in the opinion of the court, the count otherwise fulfils the requirements of this section and, without restricting the generality of the foregoing, no count in an information is insufficient by reason only that,

(*a*) it does not name the person affected by the offence or intended or attempted to be affected;

(*b*) it does not name the person who owns or has a special property or interest in property mentioned in the count;

(*c*) it charges an intent in relation to another person without naming or describing the other person;

(*d*) it does not set out any writing that is the subject of the charge;

(*e*) it does not set out the words used where words that are alleged to have been used are the subject of the charge;

(*f*) it does not specify the means by which the alleged offence was committed;

(*g*) it does not name or describe with precision any person, place or thing; or

(*h*) it does not, where the consent of a person, official or authority is required before proceedings may be instituted for an offence, state that the consent has been obtained.

Idem

(8) A count is not objectionable for the reason only that,

(*a*) it charges in the alternative several different matters, acts or omissions that are stated in the alternative in an enactment that describes as an offence the matters, acts or omissions charged in the count; or

(*b*) it is double or multifarious.

Need to negative exception, etc.

(9) No exception, exemption, proviso, excuse or qualification prescribed by law is required to be set out or negatived, as the case may be, in an information. 1979, c. 4, s. 26.

Summons

27.—(1) A summons issued under section 23 or 25 shall,

(*a*) be directed to the defendant;

(*b*) set out briefly the offence in respect of which the defendant is charged; and

(*c*) require the defendant to attend court at a time and place stated therein and to attend thereafter as required by the court in order to be dealt with according to law.

Service

(2) A summons shall be served by a provincial offences officer by delivering it personally to the person to whom it is directed or if that person cannot conveniently be found, by leaving it for him at his last known or usual place of abode with an inmate thereof who appears to be at least sixteen years of age.

Service outside Ontario

(3) Notwithstanding subsection (2), where the person to whom a summons is directed does not reside in Ontario, the summons shall be deemed to have been duly served seven days after it has been sent by registered mail to his last-known or usual place of abode.

Service on corporation

(4) Service of a summons on a corporation may be effected by delivering the summons personally,

(*a*) in the case of a municipal corporation, to the mayor, warden, reeve or other chief officer of the corporation or to the clerk of the corporation; or

(*b*) in the case of any other corporation, to the manager, secretary or other executive officer of the corporation or person apparently in charge of a branch office thereof,

or by mailing the summons by registered mail to the corporation at an address held out by the corporation to be its address, in which case the summons shall be deemed to have been duly served seven days after the day of mailing.

Substitutional service

(5) A justice, upon application and upon being satisfied that service can not be made effectively on a corporation

in accordance with subsection (4), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the corporation.

Proof of service

(6) Service of a summons may be proved by statement under oath, written or oral, of the person who made the service. 1979, c. 4, s. 27.

Contents of warrant

28.—(1) A warrant issued under section 25 shall,

(*a*) name or describe the defendant;

(*b*) set out briefly the offence in respect of which the defendant is charged; and

(*c*) order that the defendant be forthwith arrested and brought before a justice to be dealt with according to law.

Idem

(2) A warrant issued under section 25 remains in force until it is executed and need not be made returnable at any particular time. 1979, c. 4, s. 28.

PART IV

TRIAL AND SENTENCING

Trial

Application of Part

29. This Part applies to proceedings commenced under this Act. 1979, c. 4, s. 29.

Proper court

30.—(1) Subject to subsection (2), a proceeding in respect of an offence shall be heard and determined in the provincial offences court in whose territorial jurisdiction the offence occurred.

Idem

(2) A proceeding in respect of an offence may be heard and determined in the provincial offences court having territorial jurisdiction that adjoins that in which the offence occurred if,

(*a*) the court holds sittings in a place reasonably proximate to the place where the offence occurred; and

(*b*) the court and place of sitting referred to in clause (*a*) are named in the summons or offence notice.

Transfer to proper court

(3) Where a proceeding is taken in a court other than one referred to in subsection (1) or (2), the court shall order that the proceeding be transferred to the proper court and may where the defendant appears award costs under section 61.

Change of venue

(4) Where, upon the application of a defendant or prosecutor made to the court named in the information or certificate, it appears to the court that,

(*a*) it would be appropriate in the interests of justice to do so; or

(*b*) both the defendant and prosecutor consent thereto,

the court may order that the proceeding be transferred to another court in Ontario.

Conditions

(5) The court may, in an order made upon an application by the prosecutor under subsection (3) or (4), prescribe conditions that it thinks proper with respect to the payment of additional expenses caused to the defendant as a result of the change of venue.

Time of order for change of venue

(6) An order under subsection (3) or (4) may be made notwithstanding that any motion preliminary to trial has been disposed of or that the plea has been taken and it may be made at any time before evidence has been heard.

Preliminary motions

(7) The court to which proceedings are transferred under this section may receive and determine any motion preliminary to trial notwithstanding that the same matter was determined by the court from which the proceeding was transferred.

Delivery of papers

(8) Where an order is made under subsection (3) or (4), the clerk of the court in which the trial was to be held before the order was made shall deliver any material in his possession in connection with the proceedings forthwith to the clerk of the court before which the trial is ordered to be held, and all proceedings in the case shall be held or, if previously commenced, shall be continued in that court. 1979, c. 4, s. 30.

Justice presiding at trial

31.—(1) The justice presiding when evidence is first taken at the trial shall preside over the whole of the trial.

When presiding justice unable to act before adjudication

(2) Where evidence has been taken at a trial and, before making his adjudication, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences courts is for any reason unable to continue, another justice shall conduct the hearing again as a new trial.

When presiding justice unable to act after adjudication

(3) Where evidence has been taken at a trial and, after making his adjudication but before making his order or imposing sentence, the presiding justice dies or in his opinion or the opinion of the chief judge of the provincial offences

courts is for any reason unable to continue, another justice may make the order or impose the sentence that is authorized by law.

Consent to change presiding justice

(4) A justice presiding at a trial may, at any stage of the trial and upon the consent of the prosecutor and defendant, order that the trial be conducted by another justice and, upon the order being given, subsection (2) applies as if the justice were unable to act. 1979, c. 4, s. 31.

Retention of jurisdiction

32. The court retains jurisdiction over the information or certificate notwithstanding the failure of the court to exercise its jurisdiction at any particular time or that the provisions of this Act respecting adjournments are not complied with. 1979, c. 4, s. 32.

Stay of proceeding

33.—(1) In addition to his right to withdraw a charge, the Attorney General or his agent may stay any proceeding at any time before judgment by direction in court to the clerk of the court in which the proceedings are conducted and thereupon any recognizance relating to the proceeding is vacated.

Recommencement

(2) A proceeding stayed under subsection (1) may be recommenced by direction of the Attorney General, the Deputy Attorney General or a Crown attorney to the clerk of the court in which the proceeding was stayed but a proceeding that is stayed shall not be recommenced,

(*a*) later than one year after the stay; or

(*b*) after the expiration of any limitation period applicable, which shall run as if the proceeding had not been commenced until the recommencement,

whichever is the earlier. 1979, c. 4, s. 33.

Dividing counts

34.—(1) A defendant may at any stage of the proceeding apply to the court to amend or to divide a count that,

(*a*) charges in the alternative different matters, acts or omissions that are stated in the alternative in the enactment that creates or describes the offence; or

(*b*) is double or multifarious,

on the ground that, as framed, it prejudices him in his defence.

Idem

(2) Upon an application under subsection (1), where the court is satisfied that the ends of justice so require, it may order that a count be amended or divided into two or more counts, and thereupon a formal commencement may be inserted before each of the counts into which it is divided. 1979, c. 4, s. 34.

Amendment of information or certificate

35.—(1) The court may, at any stage of the proceeding, amend the information or certificate as may be necessary if it appears that the information or certificate,

(*a*) fails to state or states defectively anything that is requisite to charge the offence;

(*b*) does not negative an exception that should be negatived; or

(*c*) is in any way defective in substance or in form.

Idem

(2) The court may, during the trial, amend the information or certificate as may be necessary if the matters to be alleged in the proposed amendment are disclosed by the evidence taken at the trial.

Variances between charge and evidence

(3) A variance between the information or certificate and the evidence taken on the trial is not material with respect to,

(*a*) the time when the offence is alleged to have been committed, if it is proved that the information was laid or certificate issued within the prescribed period of limitation; or

(*b*) the place where the subject-matter of the proceedings is alleged to have arisen, except in an issue as to the jurisdiction of the court.

Considerations on amendment

(4) The court shall, in considering whether or not an amendment should be made, consider,

(*a*) the evidence taken on the trial, if any;

(*b*) the circumstances of the case;

(*c*) whether the defendant has been misled or prejudiced in his defence by a variance, error or omission; and

(*d*) whether, having regard to the merits of the case, the proposed amendment can be made without injustice being done.

(5) The question whether an order to amend an information or certificate should be granted or refused is a question of law. Amendment, question of law

(6) An order to amend an information or certificate shall be endorsed on the information or certificate as part of the record and the trial shall proceed as if the information or certificate had been originally laid as amended. 1979, c. 4, s. 35. Endorsement of order to amend

36. The court may, before or during trial, if it is satisfied that it is necessary for a fair trial, order that a particular, further describing any matter relevant to the proceedings, be furnished to the defendant. 1979, c. 4, s. 36. Particulars

37.—(1) An objection to an information or certificate for a defect apparent on its face shall be taken by motion to quash the information or certificate before the defendant has pleaded, and thereafter only by leave of the court. Motion to quash information or certificate

(2) The court shall not quash an information or certificate unless an amendment or particulars under section 34, 35 or 36 would fail to satisfy the ends of justice. 1979, c. 4, s. 37. Grounds for quashing

38. Where the information or certificate is amended or particulars are ordered and an adjournment is necessary as a result thereof, the court may make an order under section 61 for costs resulting from the adjournment. 1979, c. 4, s. 38. Costs on amendment or particulars

39.—(1) The court may, before trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried together or that persons who are charged separately be tried together. Joinder of counts or defendants

(2) The court may, before or during the trial, where it is satisfied that the ends of justice so require, direct that separate counts, informations or certificates be tried separately or that persons who are charged jointly or being tried together be tried separately. 1979, c. 4, s. 39. Separate trials

40.—(1) Where a justice is satisfied that a person is able to give material evidence in a proceeding under this Act, the justice may issue a subpoena requiring the person to attend to give evidence and bring with him any writings or things referred to in the subpoena. Issuance of subpoena

(2) A subpoena shall be served and the service shall be proved in the same manner as a summons under section 27. Service

Attendance

(3) A person who is served with a subpoena shall attend at the time and place stated in the subpoena to give evidence and, if required by the subpoena, shall bring with him any writing or other thing that he has in his possession or under his control relating to the subject-matter of the proceedings.

Remaining in attendance

(4) A person who is served with a subpoena shall remain in attendance during the hearing and the hearing as resumed after adjournment from time to time unless he is excused from attendance by the presiding justice. 1979, c. 4, s. 40.

Arrest of witness

41.—(1) Where a judge is satisfied upon evidence under oath, that a person is able to give material evidence that is necessary in a proceeding under this Act and,

(*a*) will not attend if a subpoena is served; or

(*b*) attempts to serve a subpoena have been made and have failed because he is evading service,

the judge may issue a warrant in the prescribed form for the arrest of the person.

Idem

(2) Where a person who has been served with a subpoena to attend to give evidence in a proceeding does not attend or remain in attendance, the court may, if it is established,

(*a*) that the subpoena has been served; and

(*b*) that the person is able to give material evidence that is necessary,

issue or cause to be issued a warrant in the prescribed form for the arrest of the person.

Bringing before justice

(3) The police officer who arrests a person under a warrant issued under subsection (1) or (2) shall immediately take the person before a justice.

Release on recognizance

(4) Unless the justice is satisfied that it is necessary to detain a person in custody to ensure his attendance to give evidence, the justice shall order the person released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Bringing before judge

(5) Where a proceeding under subsection (4) is before a justice of the peace and the person is not released, the justice of the peace shall cause the person to be brought before a judge within two days of his decision.

Detention

(6) Where the judge is satisfied that it is necessary to detain the person in custody to ensure his attendance to give evidence, the judge may order that the person be detained in custody to testify at the trial or to have his evidence taken by a commissioner under an order made under subsection (11).

Release on recognizance

(7) Where the judge does not make an order under subsection (6), he shall order that the person be released upon condition that he enter into a recognizance in such amount and with such sureties, if any, as are reasonably necessary to ensure his attendance.

Maximum imprisonment

(8) A person who is ordered to be detained in custody under subsection (6) or is not released in fact under subsection (7) shall not be detained in custody for a period longer than ten days.

Release when no longer required

(9) A judge, or the justice presiding at a trial, may at any time order the release of a person in custody under this section where he is satisfied that the detention is no longer justified.

Arrest on breach of recognizance

(10) Where a person who is bound by a recognizance to attend to give evidence in any proceeding does not attend or remain in attendance, the court before which the person is bound to attend may issue a warrant in the prescribed form for the arrest of that person and,

(*a*) where he is brought directly before the court, subsections (6) and (7) apply; and

(*b*) where he is not brought directly before the court, subsections (3) to (7) apply.

Commission evidence of witness in custody

(11) A judge or the justice presiding at the trial may order that the evidence of a person held in custody under this section be taken by a commissioner under section 44, which applies thereto in the same manner as to a witness who is unable to attend by reason of illness. 1979, c. 4, s. 41.

Order for person in a prison to attend

42.—(1) Where a person whose attendance is required in a court to stand trial or to give evidence is confined in a prison, and a judge is satisfied, upon evidence under oath orally or by affidavit, that his attendance is necessary to satisfy the ends of justice, the judge may issue an order in the prescribed form that the person be brought before the court before which his attendance is required, from day to day, as may be necessary.

Idem

(2) An order under subsection (1) shall be addressed to the person who has custody of the prisoner and on receipt thereof that person shall,

(*a*) deliver the prisoner to the police officer or other person who is named in the order to receive him; or

(*b*) bring the prisoner before the court upon payment of his reasonable charges in respect thereof.

Idem

(3) An order made under subsection (1) shall direct the manner in which the person shall be kept in custody and returned to the prison from which he is brought. 1979, c. 4, s. 42.

Penalty for failure to attend

43.—(1) Every person who, being required by law to attend or remain in attendance at a hearing, fails without lawful excuse to attend or remain in attendance accordingly is guilty of an offence and on conviction is liable to a fine of not more than $1,000, or to imprisonment for a term of not more than thirty days, or to both.

Proof of failure to attend

(2) In a proceeding under subsection (1), a certificate of the clerk or a justice of the court before which the defendant is alleged to have failed to attend stating that the defendant failed to attend is admissible in evidence as *prima facie* proof of the fact without proof of the signature or office of the person appearing to have signed the certificate. 1979, c. 4, s. 43.

Order for evidence by commission

44.—(1) Upon the application of the defendant or prosecutor, a judge or, during trial, the court may by order appoint a commissioner to take the evidence of a witness who is out of Ontario or is not likely to be able to attend the trial by reason of illness or physical disability or for some other good and sufficient cause.

Admission of commission evidence

(2) Evidence taken by a commissioner appointed under subsection (1) may be read in evidence in the proceeding if,

(*a*) it is proved by oral evidence or by affidavit that the witness is unable to attend for a reason set out in subsection (1);

(*b*) the transcript of the evidence is signed by the commissioner by or before whom it purports to have been taken; and

(*c*) it is proved to the satisfaction of the court that reasonable notice of the time and place for taking the evidence was given to the other party, and the party had full opportunity to cross-examine the witness.

Attendance of accused

(3) An order under subsection (1) may make provision to enable the defendant to be present or represented by counsel or agent when the evidence is taken, but failure of the defendant to be present or to be represented by counsel or agent in accordance with the order does not prevent the reading of the evidence in the proceedings if the evidence has otherwise been taken in accordance with the order and with this section.

Application of rules in civil cases

(4) Except as otherwise provided by this section or by the rules, the practice and procedure in connection with the appointment of commissioners under this section, the taking of evidence by commissioners, the certifying and return thereof, and the use of the evidence in the proceedings shall, as far as possible, be the same as those that govern like matters in civil proceedings in the Supreme Court. 1979, c. 4, s. 44.

Trial of issue as to capacity to conduct defence

45.—(1) Where at any time before a defendant is sentenced a court has reason to believe, based on,

(*a*) the evidence of a legally qualified medical practitioner or, with the consent of the parties, a written report of a legally qualified medical practitioner; or

(*b*) the conduct of the defendant in the courtroom,

that the defendant suffers from mental disorder, the court may,

(*c*) where the justice presiding is a judge, by order suspend the proceedings and direct the trial of the issue as to whether the defendant is, because of mental disorder, unable to conduct his defence; or

(*d*) where the justice presiding is a justice of the peace, refer the matter to a judge who may make an order referred to in clause (*c*).

Examination

(2) For the purposes of subsection (1), the court may order the defendant to attend to be examined under subsection (5).

Finding

(3) The trial of the issue shall be presided over by a judge and,

(*a*) where he finds that the defendant is, because of mental disorder, unable to conduct his defence, he shall order that further proceeding on the charge be suspended;

(*b*) where he finds that the defendant is able to conduct his defence, he shall order that the suspended proceeding be continued.

Application for rehearing as to capacity

(4) At any time within one year after an order is made under subsection (3), either party may, upon seven days notice to the other, apply to a judge to rehear the trial of the issue and where upon the rehearing the judge finds that the defendant is able to conduct his defence, he may order that the suspended proceeding be continued.

Order for examination

(5) For the purposes of subsection (1) or a hearing or rehearing under subsection (3) or (4), the court or judge may order the defendant to attend at such place or before such person and at or within such time as are specified in the order and submit to an examination for the purpose of determining whether the defendant is, because of mental disorder, unable to conduct his defence.

Idem

(6) Where the defendant fails or refuses to comply with an order under subsection (5) without reasonable excuse or where the person conducting the examination satisfies a judge that it is necessary to do so, the judge may by warrant direct that the defendant be taken into such custody as is necessary for the purpose of the examination and in any event for not longer than seven days and, where it is necessary to detain the defendant in a place, the place shall be, where practicable, a psychiatric facility.

Limitation on suspension of proceeding

(7) Where an order is made under subsection (3) and one year has elapsed and no further order is made under subsection (4), no further proceeding shall be taken in respect of the charge or any other charge arising out of the same circumstance. 1979, c. 4, s. 45.

Taking of plea

46.—(1) After being informed of the substance of the information or certificate, the defendant shall be asked whether he pleads guilty or not guilty of the offence charged therein.

Conviction on plea of guilty

(2) Where the defendant pleads guilty, the court may accept the plea and convict him.

Refusal to plead

(3) Where the defendant refuses to plead or does not answer directly, the court shall enter a plea of not guilty.

Plea of guilty to another offence

(4) Where the defendant pleads not guilty of the offence charged but guilty of any other offence, whether or not it is an included offence, the court may, with the consent of the prosecutor, accept such plea of guilty and accordingly amend the information or substitute the offence to which the defendant pleads guilty. 1979, c. 4, s. 46.

Trial on plea of not guilty

47.—(1) Subject to section 6, where the defendant pleads not guilty, the court shall hold the trial.

Right to defend

(2) The defendant is entitled to make his full answer and defence.

Right to examine witnesses

(3) The prosecutor or defendant, as the case may be, may examine and cross-examine witnesses.

Agreed facts

(4) The court may receive and act upon any facts agreed upon by the defendant and prosecutor without proof or evidence.

Defendant not compellable R.S.O. 1980, c. 145

(5) Notwithstanding section 8 of the *Evidence Act*, the defendant is not a compellable witness for the prosecution. 1979, c. 4, s. 47.

Evidence taken on another charge

48.—(1) The court may receive and consider evidence taken before the same justice on a different charge against the same defendant, with the consent of the parties.

Certificate as evidence

(2) Where a certificate as to the content of an official record is, by any Act, made admissible in evidence as *prima facie* proof, the court may, for the purpose of deciding whether the defendant is the person referred to in the certificate, receive and base its decision upon information it considers credible or trustworthy in the circumstances of each case.

Burden of proving exception, etc.

(3) The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information. 1979, c. 4, s. 48.

Exhibits

49.—(1) The court may order that an exhibit be kept in such custody and place as, in the opinion of the court, is appropriate for its preservation.

Release of exhibits

(2) Where any thing is filed as an exhibit in a proceeding, the clerk may release the exhibit upon the consent of the parties at any time after the trial or, in the absence of consent, may return the exhibit to the party tendering it after the disposition of any appeal in the proceeding or, where an appeal is not taken, after the expiration of the time for appeal. 1979, c. 4, s. 49.

Adjournments

50.—(1) The court may, from time to time, adjourn a trial or hearing but, where the defendant is in custody, an adjournment shall not be for a period longer than eight days without the consent of the defendant.

Early resumption

(2) A trial or hearing that is adjourned for a period may be resumed before the expiration of the period with the consent of the defendant and the prosecutor. 1979, c. 4, s. 50.

Appearance by defendant

51.—(1) A defendant may appear and act personally or by counsel or agent.

Appearance by corporation

(2) A defendant that is a corporation shall appear and act by counsel or agent.

Exclusion of agents

(3) The court may bar any person from appearing as an agent who is not a barrister and solicitor entitled to practise in Ontario if the court finds that the person is not competent properly to represent or advise the person for whom he appears as agent or does not understand and comply with the duties and responsibilities of an agent. 1979, c. 4, s. 51.

Compelling attendance of defendant

52. Notwithstanding that a defendant appears by counsel or agent, the court may order the defendant to attend personally, and, where it appears to be necessary to do so, may issue a summons in the prescribed form. 1979, c. 4, s. 52.

Excluding defendant from hearing

53.—(1) The court may cause the defendant to be removed and to be kept out of court,

(*a*) when he misconducts himself by interrupting the proceedings so that to continue in his presence would not be feasible; or

(*b*) where, during the trial of an issue as to whether the defendant is, because of mental disorder, unable to conduct his defence, the court is satisfied that failure to do so might have an adverse effect on the mental health of the defendant.

Excluding public from hearing

(2) The court may exclude the public or any member of the public from a hearing where, in the opinion of the court, it is necessary to do so,

(*a*) for the maintenance of order in the courtroom;

(*b*) to protect the reputation of a minor; or

(*c*) to remove an influence that might affect the testimony of a witness.

Prohibition of publication of evidence

(3) Where the court considers it necessary to do so to protect the reputation of a minor, the court may make an order prohibiting the publication or broadcast of the identity of the minor or of the evidence or any part of the evidence taken at the hearing. 1979, c. 4, s. 53.

Failure of prosecutor to appear

54.—(1) Where the defendant appears for a hearing and the prosecutor, having had due notice, does not appear, the court may dismiss the charge or may adjourn the hearing to another time upon such terms as it considers proper.

Idem

(2) Where the prosecutor does not appear at the time and place appointed for the resumption of an adjourned hearing under subsection (1), the court may dismiss the charge.

Costs

(3) Where a hearing is adjourned under subsection (1) or a charge is dismissed under subsection (2), the court may make an order under section 61 for the payment of costs.

Written order of dismissal

(4) Where a charge is dismissed under subsection (1) or (2), the court may, if requested by the defendant, draw up an order of dismissal stating the grounds therefor and shall give the defendant a certified copy of the order of dismissal which is, without further proof, a bar to any subsequent proceedings against the defendant in respect of the same cause. 1979, c. 4, s. 54.

Ex parte conviction

55.—(1) Where a defendant does not appear at the time and place appointed for a hearing and it is proved by the prosecutor, having been given a reasonable opportunity to do so, that a summons was served, a notice of trial was given under Part I or II, an undertaking to appear was given or a recognizance to appear was entered into, as the case may be, or where the defendant does not appear upon the resumption of a hearing that has been adjourned, the court,

(*a*) may proceed *ex parte* to hear and determine the proceedings in the absence of the defendant;

(*b*) may, if it thinks fit, adjourn the hearing and issue a summons to appear or issue a warrant in the prescribed form for the arrest of the defendant; or

(*c*) may, where the defendant does not appear in response to the summons or warrant on the date to which the hearing is adjourned, proceed under clause (*a*) or (*b*).

Where convicted *ex parte*

(2) Where, the court proceeds under clause (1) (*a*), no proceeding arising out of the failure of the defendant to appear at the time and place appointed for the hearing or for the resumption of the hearing shall be instituted or if instituted shall be proceeded with, except with the consent of the Attorney General or his agent. 1979, c. 4, s. 55.

Included offences

56. Where the offence as charged includes another offence, the defendant may be convicted of an offence so included that is proved, notwithstanding that the whole offence charged is not proved. 1979, c. 4, s. 56, *revised*.

Sentencing

Pre-sentence report

57.—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may direct a probation officer to prepare and file with the court a report in writing relating to the defendant for the purpose of assisting the court in imposing sentence.

Service

(2) Where a report is filed with the court under subsection (1), the clerk of the court shall cause a copy of the report to be provided to the defendant or his counsel or agent and to the prosecutor. 1979, c. 4, s. 57.

Submissions as to sentence

58.—(1) Where a defendant who appears is convicted of an offence, the court shall give the prosecutor and the counsel or agent for the defendant an opportunity to make submissions as to sentence and, where the defendant has no counsel or agent, the court shall ask him if he has anything to say before sentence is passed upon him.

Omission to comply

(2) The omission to comply with subsection (1) does not affect the validity of the proceeding.

Inquiries by court

(3) Where a defendant is convicted of an offence, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as it considers desirable, including his economic circumstances, but the defendant shall not be compelled to answer.

Proof of previous conviction

(4) A certificate setting out with reasonable particularity the finding of guilt or acquittal or conviction and sentence in Canada of a person signed by,

(*a*) the person who made the adjudication; or

(*b*) the clerk of the court in which the adjudication was made,

is, upon the court being satisfied that the defendant is the person referred to in the certificate, admissible in evidence and is *prima facie* proof of the facts stated therein without proof of the signature or the official character of the person appearing to have signed the certificate. 1979, c. 4, s. 58.

Time spent in custody considered

59. In determining the sentence to be imposed on a person convicted of an offence, the justice may take into account any time spent in custody by the person as a result of the offence. 1979, c. 4, s. 59.

Provision for minimum penalty

60.—(1) No penalty prescribed for an offence is a minimum penalty unless it is specifically declared to be a minimum.

Relief against minimum fine

(2) Notwithstanding that the provision that creates the penalty for an offence prescribes a minimum fine, where in the opinion of the court exceptional circumstances exist so that to impose the minimum fine would be unduly oppressive or otherwise not in the interests of justice, the court may impose a fine that is less than the minimum or suspend the sentence.

Idem, re imprisonment

(3) Where a minimum penalty is prescribed for an offence and the minimum penalty includes imprisonment, the court may, notwithstanding the prescribed penalty, impose a fine of not more than $2,000 in lieu of imprisonment. 1979, c. 4, s. 60.

Fixed costs on conviction

61.—(1) Upon conviction, the defendant is liable to pay to the court an amount by way of costs that is fixed by the regulations.

Costs respecting witnesses

(2) The court may, in its discretion, order costs towards fees and expenses reasonably incurred by or on behalf of witnesses in amounts not exceeding the maximum fixed by the regulations, to be paid,

(*a*) to the court or prosecutor by the defendant; or

(*b*) to the defendant by the person who laid the information or issued the certificate, as the case may be,

but where the proceeding is commenced by means of a certificate, the total of such costs shall not exceed $100.

Costs collectable as a fine

(3) Costs payable under this section shall be deemed to be a fine for the purpose of enforcing payment. 1979, c. 4, s. 61.

General penalty

62. Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than $2,000. 1979, c. 4, s. 62 (1), *revised*.

Minute of conviction

63. Where a court convicts a defendant or dismisses a charge, a minute of the dismissal or conviction and sentence shall be made by the court, and, upon request by the defendant or the prosecutor or by the Attorney General or his agent, the court shall cause a copy thereof certified by the clerk of the court to be delivered to the person making the request. 1979, c. 4, s. 63.

Time when imprisonment starts

64.—(1) The term of imprisonment imposed by sentence shall, unless otherwise directed in the sentence, commence on the day on which the convicted person is taken into custody thereunder, but no time during which the convicted person is imprisoned or out on bail before sentence shall be reckoned as part of the term of imprisonment to which he is sentenced.

Idem

(2) Where the court imposes imprisonment, the court may order custody to commence on a day not later than thirty days after the day of sentencing. 1979, c. 4, s. 64.

Sentences consecutive

65. Where a person is subject to more than one term of imprisonment at the same time, the terms shall be served consecutively except in so far as the court has ordered a term to be served concurrently with any other term of imprisonment. 1979, c. 4, s. 65.

Authority of warrant

66.—(1) A warrant of committal is sufficient authority,

(*a*) for the conveyance of the prisoner in custody for the purpose of committal under the warrant; and

(*b*) for the reception and detention of the prisoner by keepers of prisons in accordance with the terms of the warrant.

(2) A person to whom a warrant of committal is directed shall convey the prisoner to the correctional institution named in the warrant. Conveyance of prisoner

(3) A sentence of imprisonment shall be served in accordance with the enactments and rules that govern the institution to which the prisoner is sentenced. 1979, c. 4, s. 66. Prisoner subject to rules of institution

67.—(1) A fine becomes due and payable fifteen days after its imposition. When fine due

(2) Where the court imposes a fine, the court shall ask the defendant if he wishes an extension of the time for payment of the fine. Extension of time for payment of a fine

(3) Where the defendant requests an extension of the time for payment of the fine, the court may make such inquiries, on oath or otherwise, of and concerning the defendant as the court considers desirable, but the defendant shall not be compelled to answer. Inquiries

(4) Unless the court finds that the request for extension of time is not made in good faith or that the extension would likely be used to evade payment, the court shall extend the time for payment by ordering periodic payments or otherwise. Granting of extension

(5) Where a fine is imposed in the absence of the defendant, the clerk of the court shall give the defendant notice of the fine and its due date and of his right to apply for an extension of the time for payment under subsection (6). Notice where convicted *in absentia*

(6) The defendant may, at any time by application in the prescribed form filed in the office of the court, request an extension or further extension of time for payment of a fine and the application shall be determined by a justice and the justice has the same powers in respect of the application as the court has under subsections (3) and (4). 1979, c. 4, s. 67. Further application for extension

68. The Lieutenant Governor in Council may make regulations establishing a program to permit the payment of fines by means of credits for work performed, and, for the purpose and without restricting the generality of the foregoing may, Regulation for work credits for fines

(*a*) prescribe classes of work and the conditions under which they are to be performed;

(*b*) prescribe a system of credits;

(*c*) provide for any matter necessary for the effective administration of the program,

and any regulation may limit its application to any part or parts of Ontario. 1979, c. 4, s. 68.

Civil enforcement of fines

69.—(1) When the payment of a fine is in default, the clerk of the court may complete a certificate in the prescribed form as to the imposition of the fine and the amount remaining unpaid and file the certificate in a court of competent jurisdiction and upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement.

Limitation

(2) A certificate shall not be filed under subsection (1) after two years after the default in respect of which it is issued.

Certificate of discharge

(3) Where a certificate has been filed under subsection (1) and the fine is fully paid, the clerk shall file a certificate of payment upon which the certificate of default is discharged and, where a writ of execution has been filed with the sheriff, the clerk shall file a certificate of payment with the sheriff, upon which the writ is cancelled. 1979, c. 4, s. 69.

Default

70.—(1) The payment of a fine is in default when any part of the fine is due and unpaid for fifteen days or more.

Order on default

(2) Where a justice is satisfied that payment of a fine is in default, the justice,

(*a*) shall order that any permit, licence, registration or privilege in respect of which a suspension is authorized by or under any Act for non-payment of the fine be suspended, not renewed or not issued until the fine is paid; and

(*b*) may direct the clerk of the court to proceed with civil enforcement under section 69.

Imprisonment for non-payment of fine

(3) A justice may issue a warrant in the prescribed form for the committal of the defendant where,

(*a*) an order or direction under clause (2) (*a*) has not resulted in payment within a time that is reasonable in the circumstances;

(*b*) all other reasonable methods of collecting the fine have been tried and failed or, in the opinion of the justice, would not likely result in payment within a reasonable time in the circumstances; and

(*c*) the defendant has been given fifteen days notice of the intent to issue a warrant and has had an opportunity to be heard.

Provision on conviction for imprisonment in default

(4) In exceptional circumstances where, in the opinion of the court imposing the fine, to proceed under subsection (3) would defeat the ends of justice, the court may,

(*a*) order that no warrant of committal be issued under subsection (3); or

(*b*) order imprisonment in default of payment of the fine and that no extension of time for payment be granted.

Term of imprisonment

(5) Imprisonment under a warrant issued under subsection (3) or (4) shall be for three days, plus one day for each $25 or part thereof that is in default, subject to a maximum period of,

(*a*) ninety days; or

(*b*) half of the maximum imprisonment, if any, provided for the offence,

whichever is the greater.

Effect of payments

(6) Any payment made after a warrant is issued under subsection (3) or (4) shall reduce the term by the number of days that is in the same proportion to the number of days in the term as the amount paid bears to the amount in default and no amount offered in part payment of a fine shall be accepted unless it is sufficient to secure reduction of sentence of one day, or a multiple thereof. 1979, c. 4, s. 70, *revised*.

Suspension of fine on conditions

71. Where an Act provides that a fine may be suspended subject to the performance of a condition,

(*a*) the period of suspension shall be fixed by the court and shall be for not more than one year;

(*b*) the court shall provide in its order of suspension the method of proving the performance of the condition;

(*c*) the suspension is in addition to and not in lieu of any other power of the court in respect of the fine; and

(*d*) the fine is not in default until fifteen days have elapsed after notice that the period of suspension has expired is given to the defendant. 1979, c. 4, s. 71.

Probation order

72.—(1) Where a defendant is convicted of an offence in a proceeding commenced by information, the court may, having regard to the age, character and background of the defendant, the nature of the offence and the circumstances surrounding its commission,

(*a*) suspend the passing of sentence and direct that the defendant comply with the conditions prescribed in a probation order;

(*b*) in addition to fining the defendant or sentencing him to imprisonment, whether in default of payment of a fine or otherwise, direct that the defendant comply with the conditions prescribed in a probation order; or

(*c*) where it imposes a sentence of imprisonment on the defendant, whether in default of payment of a fine or otherwise, that does not exceed ninety days, order that the sentence be served intermittently at such times as are specified in the order and direct that the defendant, at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order.

Statutory conditions of order

(2) A probation order shall be deemed to contain the conditions that,

(*a*) the defendant not commit the same or any related or similar offence, or any offence under a statute of Canada or Ontario or any other province of Canada that is punishable by imprisonment;

(*b*) the defendant appear before the court as and when required; and

(*c*) the defendant notify the court of any change in his address.

Conditions imposed by court

(3) In addition to the conditions set out in subsection (2), the court may prescribe the following conditions in a probation order,

(*a*) that the defendant satisfy any compensation or restitution that is required or authorized by an Act;

(*b*) with the consent of the defendant and where the conviction is of an offence that is punishable by imprisonment, that the defendant perform a community service as set out in the order;

(*c*) where the conviction is of an offence punishable by imprisonment, such other conditions relating to the circumstances of the offence and of the defendant that contributed to the commission of the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to the rehabilitation of the defendant; or

(*d*) where considered necessary for the purpose of implementing the conditions of the probation order, that the defendant report to a responsible person designated by the court and, in addition, where the circumstances warrant it, that the defendant be under the supervision of the person to whom he is required to report.

Form of order

(4) A probation order shall be in the prescribed form and the court that makes the order shall specify therein the period for which it is to remain in force, which shall not be for more than two years from the date when the order takes effect.

Notice of order

(5) Where the court makes a probation order, it shall cause a copy of the order and a copy of section 75 to be given to the defendant.

Regulations for community service orders

(6) The Lieutenant Governor in Council may make regulations governing restitution, compensation and community service orders, including their terms and conditions. 1979, c. 4, s. 72.

When order comes into force

73.—(1) A probation order comes into force,

(*a*) on the date on which the order is made; or

(*b*) where the defendant is sentenced to imprisonment other than a sentence to be served intermittently, upon the expiration of that sentence.

Continuation in force

(2) Subject to section 75, where a defendant who is bound by a probation order is convicted of an offence or is imprisoned in default of payment of a fine, the order continues in force except in so far as the sentence or imprisonment

renders it impossible for the defendant to comply for the time being with the order. 1979, c. 4, s. 73.

Variation of probation order

74. The court may, at any time upon the application of the defendant or prosecutor with notice to the other, after a hearing or, with the consent of the parties, without a hearing,

(*a*) make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances;

(*b*) relieve the defendant, either absolutely or upon such terms or for such period as the court considers desirable, of compliance with any condition described in any of the clauses in subsection 72 (3) that is prescribed in the order; or

(*c*) terminate the order or decrease the period for which the probation order is to remain in force,

and the court shall thereupon endorse the probation order accordingly and, if it changes or adds to the conditions prescribed in the order, inform the defendant of its action and give him a copy of the order so endorsed. 1979, c. 4, s. 74.

Breach of probation order

75. Where a defendant who is bound by a probation order is convicted of an offence constituting a breach of condition of the order and,

(*a*) the time within which he may appeal or apply for leave to appeal against that conviction has expired and he has not taken an appeal or applied for leave to appeal;

(*b*) he has taken an appeal or applied for leave to appeal against the conviction and the appeal or application for leave has been dismissed or abandoned; or

(*c*) he has given written notice to the court that convicted him that he elects not to appeal,

or where the defendant otherwise wilfully fails or refuses to comply with the order, he is guilty of an offence and upon conviction the court may,

(*d*) impose a fine of not more than $1,000 or imprisonment for a term of not more than thirty days, or both, and in lieu of or in addition to the penalty, continue the probation order with such changes or additions and for such extended term, not exceeding an additional year, as the court considers reasonable; or

(*e*) where the justice presiding is the justice who made the original order, in lieu of imposing the penalty under clause (*d*), revoke the probation order and impose the sentence the passing of which was suspended upon the making of the probation order. 1979, c. 4, s. 75.

PART V

GENERAL PROVISIONS

Limitation

76.—(1) Proceedings shall not be commenced after the expiration of any limitation period prescribed for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed.

Extension

(2) A limitation period may be extended by a justice with the consent of the defendant. 1979, c. 4, s. 76.

Parties to offence

77.—(1) Every person is a party to an offence who,

(*a*) actually commits it,

(*b*) does or omits to do anything for the purpose of aiding any person to commit it; or

(*c*) abets any person in committing it.

Common purpose

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to the offence. 1979, c. 4, s. 77.

Counselling

78.—(1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to the offence, the person who counselled or procured is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured.

Idem

(2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring. 1979, c. 4, s. 78.

Computation of age

79. In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer the age of a person from his appearance. 1979, c. 4, s. 79.

Common law defences

80. Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of offences, except in so far as they are altered by or inconsistent with this or any other Act. 1979, c. 4, s. 80.

Ignorance of the law

81. Ignorance of the law by a person who commits an offence is not an excuse for committing the offence. 1979, c. 4, s. 81.

Counsel or agent

82. A defendant may act by his counsel or agent. 1979, c. 4, s. 82.

Recording of evidence

83.—(1) Proceedings in which evidence is taken shall be recorded.

Evidence under oath

(2) Evidence under this Act shall be taken under oath, except as otherwise provided by law. 1979, c. 4, s. 83.

Interpreters

84.—(1) A justice may authorize a person to act as interpreter in a proceeding before him where the person swears the prescribed oath and, in the opinion of the justice, is competent.

Idem

(2) A judge may authorize a person to act as interpreter in proceedings under this Act where he swears the prescribed oath and, in the opinion of the judge is competent and likely to be readily available. 1979, c. 4, s. 84.

Extension of time

85. Any time prescribed by this Act or the regulations made thereunder or by the rules of the court for doing any thing other than commencing or recommencing proceedings may be extended by the court in which the proceeding is conducted, whether or not the prescribed time has expired. 1979, c. 4, s. 85.

Penalty for false statements

86. Every person who makes an assertion of fact in a statement or entry in a document or form for use under this Act knowing that the assertion is false is guilty of an offence and on conviction is liable to a fine of not more than $1,000. 1979, c. 4, s. 86.

Delivery

87.—(1) Except as otherwise provided by this Act or the rules of the court, any notice or document required or authorized to be given or delivered under this Act or the rules of the court is sufficiently given or delivered if delivered, whether personally or by mail.

Idem

(2) Where a notice or document that is required or authorized to be given or delivered to a person under this Act is mailed to the person at his last known address appearing on the records of the court in the proceeding, there is a rebuttable presumption that the notice or document is delivered to the person. 1979, c. 4, s. 87.

Civil remedies preserved

88. No civil remedy for an act or omission is suspended or affected for the reason that the act or omission is an offence. 1979, c. 4, s. 88.

Process on holidays

89. Any action authorized or required by this Act is not invalid for the reason only that the action was taken on a non-juridical day. 1979, c. 4, s. 89.

Irregularities in form

90.—(1) The validity of any proceeding is not affected by,

(*a*) any irregularity or defect in the substance or form of the summons, warrant, offence notice, parking infraction notice, undertaking to appear or recognizance; or

(*b*) any variance between the charge set out in the summons, warrant, parking infraction notice, offence notice undertaking to appear or recognizance and the charge set out in the information or certificate.

Adjournment to meet irregularities

(2) Where it appears to the court that the defendant has been misled by any irregularity, defect or variance mentioned in subsection (1), the court may adjourn the hearing and may make such order as the court considers appropriate, including an order under section 61 for the payment of costs. 1979, c. 4, s. 90.

Regulations

91. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing any matter referred to in this Act as prescribed by the regulations;

(*b*) prescribing the form of certificate as to ownership of a motor vehicle given by the Registrar under subsection 184 (3) of the *Highway Traffic Act* for the purpose of proceedings under this Act; R.S.O. 1980, c. 198

(*c*) providing for the extension of times prescribed by or under this Act or the rules in the event of a disruption in postal services;

(*d*) requiring the payment of fees upon the filing of anything required or permitted to be filed under this Act or the rules and fixing the amounts thereof, and providing for the waiver of the payment of a fee by a justice, or by a judge under Part VI, in such circumstances and under such conditions as are set out in the regulations;

(*e*) fixing costs payable upon conviction and referred to in subsection 61 (1);

(*f*) fixing the items in respect of which costs may be awarded under subsection 61 (2) and prescribing the maximum amounts that may be awarded in respect of each item. 1979, c. 4, s. 91.

PART VI

APPEALS AND REVIEW

Interpretation

92. In this Part,

(*a*) "counsel" when used in respect of proceedings in a provincial court (criminal division) includes an agent;

(*b*) "court" means the court to which an appeal is or may be taken under this Part;

(*c*) "judge" means a judge of the court to which an appeal is or may be taken under this Part;

(*d*) "rules" means the rules made under section 123;

(*e*) "sentence" includes any order or disposition consequent upon a conviction and an order as to costs. 1979, c. 4, s. 92 (1).

Custody pending appeal

93. A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 134 (2). 1979, c. 4, s. 94.

Payment of fine before appeal

94.—(1) A notice of appeal by a defendant shall not be accepted for filing if the defendant has not paid in full the fine imposed by the decision appealed from.

(2) A judge may waive compliance with subsection (1) and order that the appellant enter into a recognizance to appear on the appeal, and the recognizance shall be in such amount, with or without sureties, as the judge directs. 1979, c. 4, s. 95. Exception with recognizance

95. The filing of a notice of appeal does not stay the conviction unless a judge so orders. 1979, c. 4, s. 96. Stay

96.—(1) Where an appellant is in custody pending the hearing of the appeal and the hearing of the appeal has not commenced within thirty days from the day on which notice of the appeal was given, the person having custody of the appellant shall apply to a judge to fix a date for the hearing of the appeal. Fixing of date where appellant in custody

(2) Upon receiving an application under subsection (1), the judge shall, after giving the prosecutor a reasonable opportunity to be heard, fix a date for the hearing of the appeal and give such directions as he thinks appropriate for expediting the hearing of the appeal. 1979, c. 4, s. 97. Idem

97. A person does not waive his right of appeal by reason only that he pays the fine or complies with any order imposed upon conviction. 1979, c. 4, s. 98. Payment of fine not waiver

98. Where a notice of appeal has been filed, the clerk of the appeal court shall notify the clerk of the provincial offences court appealed from of the appeal and, upon receipt of the notification, the clerk of the provincial offences court shall transmit the order appealed from and transmit or transfer custody of all other material in his possession or control relevant to the proceedings to the clerk of the appeal court to be kept with the records of the appeal court. 1979, c. 4, s. 99. Transmittal of material

APPEALS UNDER PART III

99.—(1) Where a proceeding is commenced by information under Part III, the defendant or the prosecutor or the Attorney General by way of intervention may appeal from a conviction or dismissal or from a finding as to ability, because of mental disorder, to conduct a defence or as to sentence. Appeal

(2) An appeal under subsection (1) shall be, Appeal court

(*a*) where the appeal is from the decision of a justice of the peace, to the provincial court (criminal division) of the county or district in which the adjudication was made; or

(*b*) where the appeal is from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

Notice of appeal

(3) The appellant shall give notice of appeal in such manner and within such period as is provided by the rules. 1979, c. 4, s. 93.

Powers of court

100.—(1) The court may, where it considers it to be in the interests of justice,

(*a*) order the production of any writing, exhibit or other thing relevant to the appeal;

(*b*) order any witness who would have been a compellable witness at the trial, whether or not he was called at the trial,

(i) to attend and be examined before the court, or

(ii) to be examined in the manner provided by the rules before a judge of the court, or before any officer of the court or justice of the peace or other person appointed by the court for the purpose;

(*c*) admit, as evidence, an examination that is taken under subclause (*b*) (ii);

(*d*) receive the evidence, if tendered, of any witness;

(*e*) order that any question arising on the appeal that,

(i) involves prolonged examination of writings or accounts, or scientific investigation, and

(ii) cannot in the opinion of the court conveniently be inquired into before the court,

be referred for inquiry and report, in the manner provided by the rules, to a special commissioner appointed by the court; and

(*f*) act upon the report of a commissioner who is appointed under clause (*e*) in so far as the court thinks fit to do so.

Right of appellant

(2) In proceedings under this section, the parties or their counsel are entitled to examine or cross-examine witnesses

and, in an inquiry under clause (1) (*e*), are entitled to be present during the inquiry and to adduce evidence and to be heard. 1979, c. 4, s. 100.

Right to counsel

101.—(1) An appellant or respondent may appear and act personally or by counsel.

Attendance while in custody

(2) An appellant or respondent who is in custody as a result of the decision appealed from is entitled to be present at the hearing of the appeal.

Sentencing in absence

(3) The power of a court to impose sentence may be exercised notwithstanding that the appellant or respondent is not present. 1979, c. 4, s. 101, *revised*.

Written argument

102. An appellant or respondent may present his case on appeal and his argument in writing instead of orally, and the court shall consider any case or argument so presented. 1979, c. 4, s. 102, *revised*.

Powers on appeal against conviction

103.—(1) On the hearing of an appeal against a conviction or against a finding as to the ability, because of mental disorder, to conduct a defence, the court by order,

(*a*) may allow the appeal where it is of the opinion that,

(i) the finding should be set aside on the ground that it is unreasonable or cannot be supported by the evidence,

(ii) the judgment of the trial court should be set aside on the ground of a wrong decision on a question of law, or

(iii) on any ground, there was a miscarriage of justice; or

(*b*) may dismiss the appeal where,

(i) the court is of the opinion that the appellant, although he was not properly convicted on a count or part of an information, was properly convicted on another count or part of the information,

(ii) the appeal is not decided in favour of the appellant on any ground mentioned in clause (*a*), or

(iii) notwithstanding that the court is of the opinion that on any ground mentioned in subclause (*a*) (ii) the appeal might be decided in favour of the appellant, it is of the opinion that no substantial wrong or miscarriage of justice has occurred.

Idem

(2) Where the court allows an appeal under clause (1) (*a*), it shall,

(*a*) where the appeal is from a conviction,

(i) direct a finding of acquittal to be entered, or

(ii) order a new trial; or

(*b*) where the appeal is from a finding as to the ability, because of mental disorder, to conduct a defence, order a new trial, subject to section 45.

Idem

(3) Where the court dismisses an appeal under clause (1) (*b*), it may substitute the decision that in its opinion should have been made and affirm the sentence passed by the trial court or impose a sentence that is warranted in law. 1979, c. 4, s. 103.

Powers on appeal against acquittal

104. Where an appeal is from an acquittal, the court may by order,

(*a*) dismiss the appeal; or

(*b*) allow the appeal, set aside the finding and,

(i) order a new trial, or

(ii) enter a finding of guilt with respect to the offence of which, in its opinion, the person who has been accused of the offence should have been found guilty, and pass a sentence that is warranted in law. 1979, c. 4, s. 104, *revised*.

Appeal against sentence

105.—(1) Where an appeal is taken against sentence, the court shall consider the fitness of the sentence appealed from and may, upon such evidence, if any, as it thinks fit to require or receive, by order,

(*a*) dismiss the appeal; or

(*b*) vary the sentence within the limits prescribed by law for the offence of which the defendant was convicted,

and, in making any order under clause (*b*), the court may take into account any time spent in custody by the defendant as a result of the offence.

Variance of sentence

(2) A judgment of a court that varies a sentence has the same force and effect as if it were a sentence passed by the trial court. 1979, c. 4, s. 105.

One sentence on more than one count

106. Where one sentence is passed upon a finding of guilt on two or more counts, the sentence is good if any of the counts would have justified the sentence. 1979, c. 4, s. 106.

Appeal based on defect in information or process

107.—(1) Judgment shall not be given in favour of an appellant based on any alleged defect in the substance or form of an information, certificate or process or any variance between the information, certificate or process and the evidence adduced at trial unless it is shown that objection was taken at the trial and that, in the case of a variance, an adjournment of the trial was refused notwithstanding that the variance had misled the appellant.

Idem

(2) Where an appeal is based on a defect in a conviction or an order, judgment shall not be given in favour of the appellant, but the court shall make an order curing the defect. 1979, c. 4, s. 107.

Additional orders

108. Where a court exercises any of the powers conferred by sections 100 to 107, it may make any order, in addition, that justice requires. 1979, c. 4, s. 108.

New trial

109.—(1) Where a court orders a new trial, it shall be held in a provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance unless the appeal court directs that the new trial be held before the justice who tried the defendant in the first instance.

Order for release

(2) Where a court orders a new trial, it may make such order for the release or detention of the appellant pending such trial as may be made by a justice under subsection 134 (2) and the order may be enforced in the same manner as if it had been made by a justice under that subsection. 1979, c. 4, s. 109.

Trial *de novo*

110.—(1) Where, because of the condition of the record of the trial in the trial court or for any other reason, the court, upon application of the appellant or respondent, is of the opinion that the interests of justice would be better served by hearing and determining the appeal by holding a new trial in the court, the court may order that the appeal

shall be heard by way of a new trial in the court in accordance with the rules, and for this purpose this Act applies, with necessary modifications, in the same manner as to a proceeding in a provincial offences court.

Evidence

(2) The court may, for the purpose of hearing and determining an appeal under subsection (1), permit the evidence of any witness taken before the trial court to be read if that evidence has been authenticated and if,

(*a*) the appellant and respondent consent;

(*b*) the court is satisfied that the attendance of the witness cannot reasonably be obtained; or

(*c*) by reason of the formal nature of the evidence or otherwise the court is satisfied that the opposite party will not be prejudiced,

and any evidence that is read under the authority of this subsection has the same force and effect as if the witness had given the evidence before the court. 1979, c. 4, s. 110.

Dismissal or abandonment

111. The court may, upon proof that notice of an appeal has been given and that,

(*a*) the appellant has failed to comply with any order made under section 93 or 94 or with the conditions of any recognizance entered into under either of those sections; or

(*b*) the appeal has not been proceeded with or has been abandoned,

order that the appeal be dismissed. 1979, c. 4, s. 111.

Costs

112.—(1) Where an appeal is heard and determined or is abandoned or is dismissed for want of prosecution, the court may make any order with respect to costs that it considers just and reasonable.

Payment

(2) Where the court orders the appellant or respondent to pay costs, the order shall direct that the costs be paid to the clerk of the trial court, to be paid by him to the person entitled to them, and shall fix the period within which the costs shall be paid.

Enforcement

(3) Costs ordered to be paid under this section by a person other than a prosecutor acting on behalf of the Crown shall

be deemed to be a fine for the purpose of enforcing its payment. 1979, c. 4, s. 112.

Implementation of appeal court order

113. An order or judgment of the appeal court shall be implemented or enforced by the trial court and the clerk of the appeal court shall send to the clerk of the trial court the order and all writings relating thereto. 1979, c. 4, s. 113.

Appeal to Court of Appeal

114.—(1) A defendant or the prosecutor or the Attorney General by way of intervention may appeal from the judgment of the court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone or as to sentence in accordance with the rules made under section 123.

Grounds for leave

(2) No leave to appeal shall be granted under subsection (1) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. 1979, c. 4, s. 114.

Custody pending appeal

115. A defendant who appeals shall, if he is in custody, remain in custody, but a judge may order his release upon any of the conditions set out in subsection 134 (2). 1979, c. 4, s. 115.

Transfer of record

116. Where an application for leave to appeal is made, the Registrar of the Court of Appeal shall notify the clerk of the court appealed from of the application and, upon receipt of the notification, the clerk of the court shall transmit to the Registrar all the material forming the record including any other relevant material requested by a justice of appeal. 1979, c. 4, s. 116.

Application of ss. 97, 100-109, 111 (*b*), 112

117. Sections 97, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109, clause 111 (*b*) and section 112 apply, with necessary modifications, to appeals to the Court of Appeal under section 114. 1979, c. 4, s. 117.

APPEALS UNDER PARTS I AND II

Appeal

118.—(1) A defendant or the prosecutor or the Attorney General by way of intervention is entitled to appeal an acquittal, conviction or sentence in a proceeding commenced by certificate under Part I or II and the appeal shall be to the provincial court (criminal division) of the county or district in which the adjudication was made.

Application for appeal

(2) A notice of appeal shall be in the prescribed form and shall state the reasons why the appeal is taken and shall be filed with the clerk of the provincial court (criminal division)

within fifteen days after the making of the decision appealed from, in accordance with the rules.

Notice of hearing

(3) The clerk shall, as soon as is practicable, give a notice to the defendant and prosecutor of the time and place of the hearing of the appeal. 1979, c. 4, s. 118.

Conduct of appeal

119.—(1) Upon an appeal, the court shall give the parties an opportunity to be heard for the purpose of determining the issues and may, where the circumstances warrant it, make such inquiries as are necessary to ensure that the issues are fully and effectively defined.

Review

(2) An appeal shall be conducted by means of a review in the provincial court (criminal division) of the county or district in which the adjudication was made.

Evidence

(3) In determining a review, the court may,

(*a*) hear or rehear the recorded evidence or any part thereof and may require any party to provide a transcript of the evidence, or any part thereof, or to produce any further exhibit;

(*b*) receive the evidence of any witness whether or not the witness gave evidence at the trial;

(*c*) require the justice presiding at the trial to report in writing on any matter specified in the request; or

(*d*) receive and act upon statements of agreed facts or admissions. 1979, c. 4, s. 119.

Dismissal on abandonment

120. Where an appeal has not been proceeded with or abandoned, the court may order that the appeal be dismissed. 1979, c. 4, s. 120.

Powers of court on appeal

121.—(1) Upon an appeal, the court may affirm, reverse or vary the decision appealed from or where, in the opinion of the court, it is necessary to do so to satisfy the ends of justice, direct a new trial.

New trial

(2) Where the court directs a new trial, it shall be held in the provincial offences court presided over by a justice other than the justice who tried the defendant in the first instance, but the appeal court may, with the consent of the parties to the appeal, direct that the new trial be held before the justice who tried the defendant in the first instance or before the judge who directs the new trial.

(3) Upon an appeal, the court may make an order under section 61 for the payment of costs incurred on the appeal, and subsection (3) thereof applies to the order in the same manner as to an order of a provincial offences court. 1979, c. 4, s. 121. Costs

122.—(1) An appeal lies from the judgment of the provincial court (criminal division) to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone in accordance with the rules made under section 123. Appeal to Court of Appeal

(2) No leave to appeal shall be granted under subsection (1) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted. Grounds for leave

(3) Upon an appeal under this section, the Court of Appeal may make any order with respect to costs that it considers just and reasonable. 1979, c. 4, s. 122. Costs

RULES FOR APPEALS

123. The Lieutenant Governor in Council may make rules of court not inconsistent with this or any other Act for the conduct of and governing practices and procedures on appeals in the provincial courts (criminal division), the county and district courts and the Court of Appeal under this Act, and respecting any matter arising from or incidental to such appeals. 1979, c. 4, s. 123. Rules of court for appeals

REVIEW

124.—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of matters arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of mandamus, prohibition or *certiorari*. Application for relief in nature of mandamus, prohibition, *certiorari*

(2) Notice of an application under this section shall be served on, Notice of application

(*a*) the person whose act or omission gives rise to the application;

(*b*) any person who is a party to a proceeding that gives rise to the application; and

(*c*) the Attorney General.

Appeal

(3) An appeal lies to the Court of Appeal from an order made under this section. 1979, c. 4, s. 124.

Notice re *certiorari*

125.—(1) A notice under section 124 in respect of an application for relief in the nature of *certiorari* shall be given at least seven days and not more than ten days before the date fixed for the hearing of the application and the notice shall be served within thirty days after the occurrence of the act sought to be quashed.

Filing material

(2) Where a notice referred to in subsection (1) is served on the person making the decision, order or warrant or holding the proceeding giving rise to the application, such person shall forthwith file in the High Court for use on the application, all material concerning the subject-matter of the application.

Where appeal available

(3) No application shall be made to quash a conviction, order or ruling from which an appeal is provided by this Act, whether subject to leave or otherwise.

Substantial wrong

(4) On an application for relief in the nature of *certiorari*, the High Court shall not grant relief unless the court finds that a substantial wrong or miscarriage of justice has occurred, and the court may amend or validate any decision already made, with effect from such time and on such terms as the court considers proper.

Order for immunity from civil liability

(5) Where an application is made to quash a decision, order, warrant or proceeding made or held by a justice on the ground that he exceeded his jurisdiction, the High Court may, in quashing the decision, order, warrant or proceeding, order that no civil proceeding shall be taken against the justice or against any officer who acted under the decision, order or warrant or in the proceeding or under any warrant issued to enforce it. 1979, c. 4, s. 125.

Application for *habeas corpus*

126.—(1) Upon an application by way of originating notice, the High Court may by order grant any relief in respect of a matter arising under this Act that the applicant would be entitled to in proceedings by way of an application for an order in the nature of *habeas corpus*.

Procedure on application for relief in nature of *habeas corpus*

(2) Notice of an application under subsection (1) for relief in the nature of *habeas corpus* shall be served upon the person having custody of the person in respect of whom the application is made and upon the Attorney General and upon the

hearing of the application the presence before the High Court of the person in respect of whom the application was made may be dispensed with by consent, in which event the High Court may proceed to dispose of the matter forthwith as the justice of the case requires.

Application of R.S.O. 1980, c. 193

(3) Subject to subsections (1) and (2), the *Habeas Corpus Act* applies to applications under this section, but an application for relief in the nature of *certiorari* may be brought in aid of an application under this section.

R.S.O. 1980, cc. 224 and 223 do not apply

(4) The *Judicial Review Procedure Act* and sections 68 and 69 of the *Judicature Act* do not apply to matters in respect of which an application may be made under section 124.

Costs

(5) A court to which an application or appeal is made under section 124 or this section may make any order with respect to costs that it considers just and reasonable. 1979, c. 4, s. 126.

PART VII

ARREST, BAIL AND SEARCH WARRANTS

Arrest

Officer in charge

127. In this Part, "officer in charge" means the police officer who is in charge of the lock-up or other place to which a person is taken after his arrest. 1979, c. 4, s. 127.

Execution of warrant

128.—(1) A warrant for the arrest of a person shall be executed by a police officer by arresting the person against whom the warrant is directed wherever he is found in Ontario.

Idem

(2) A police officer may arrest without warrant a person for whose arrest he has reasonable and probable grounds to believe that a warrant is in force in Ontario. 1979, c. 4, s. 128.

Arrest without warrant

129. Any person may arrest without warrant a person who he has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person, and, where the person who makes the arrest is not a police officer, shall forthwith deliver the person arrested to a police officer. 1979, c. 4, s. 129.

Use of force

130.—(1) Every police officer is, if he acts on reasonable and probable grounds, justified in using as much force as is necessary to do what he is required or authorized by law to do.

Use of force by citizen

(2) Every person upon whom a police officer calls for assistance is justified in using as much force as he believes on reasonable and probable grounds is necessary to render such assistance. 1979, c. 4, s. 130.

Immunity from civil liability

131. Where a person is wrongfully arrested, whether with or without a warrant, no action for damages shall be brought,

(*a*) against the police officer making the arrest if he believed in good faith and on reasonable and probable grounds that the person arrested was the person named in the warrant or was subject to arrest without warrant under the authority of an Act;

(*b*) against any person called upon to assist the police officer if such person believed that the police officer had the right to effect the arrest; or

(*c*) against any person required to detain the prisoner in custody if such person believes the arrest was lawfully made. 1979, c. 4, s. 131.

Production of process

132.—(1) It is the duty of every one who executes a process or warrant to have it with him, where it is feasible to do so, and to produce it when requested to do so.

Notice of reason for arrest

(2) It is the duty of every one who arrests a person, whether with or without warrant, to give notice to that person, where it is feasible to do so, of the reason for the arrest. 1979, c. 4, s. 132.

Bail

Release after arrest by officer

133.—(1) Where a police officer acting under a warrant or other power of arrest, arrests a person, the police officer shall, as soon as is practicable, release the person from custody after serving him with a summons or offence notice unless he has reasonable and probable grounds to believe that,

(*a*) it is necessary in the public interest for the person to be detained, having regard to all the circumstances including the need to,

(i) establish the identity of the person,

(ii) secure or preserve evidence of or relating to the offence, or

(iii) prevent the continuation or repetition of the offence or the commission of another offence; or

(*b*) the person arrested is ordinarily resident outside Ontario and will not respond to a summons or offence notice.

Release by officer in charge

(2) Where a defendant is not released from custody under subsection (1), the police officer shall deliver him to the officer in charge who shall, where in his opinion the conditions set out in clauses (1) (*a*) and (*b*) do not or no longer exist, release the defendant,

(*a*) upon serving him with a summons or offence notice;

(*b*) upon his entering into a recognizance in the prescribed form without sureties conditioned for his appearance in court.

Cash bail by non-resident

(3) Where the defendant is held for the reason only that he is not ordinarily resident in Ontario and it is believed that he will not respond to a summons or offence notice, the officer in charge may, in addition to anything required under subsection (2), require the defendant to deposit cash or other satisfactory negotiable security in an amount not to exceed,

(*a*) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, $300; or

(*b*) where the proceeding is commenced by information under Part III, $500. 1979, c. 4, s. 133.

Person in custody to be brought before justice

134.—(1) Where a defendant is not released from custody under section 133, the officer in charge shall, as soon as is practicable but in any event within twenty-four hours, bring him before a justice and the justice shall, unless a plea of guilty is taken, order that the defendant be released upon giving his undertaking to appear unless the prosecutor having been given an opportunity to do so shows cause why the detention of the defendant is justified to ensure his appearance in court or why an order under subsection (2) is justified for the same purpose.

Order for conditional release

(2) Subject to subsection (1), the justice may order the release of the defendant,

(*a*) upon his entering into a recognizance to appear with such conditions as are appropriate to ensure his appearance in court;

(*b*) where the offence is one punishable by imprisonment for twelve months or more, conditional upon his entering into a recognizance before a justice with sureties in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court or, with the consent of the prosecutor, upon his depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,

(i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or, if none, $300, or

(ii) where the proceeding is commenced by information under Part III, $1,000; or

(*c*) if the defendant is not ordinarily resident in Ontario, upon his entering into a recognizance before a justice, with or without sureties, in such amount and with such conditions, if any, as are appropriate to ensure his appearance in court, and depositing with the justice such sum of money or other valuable security as the order directs in an amount not exceeding,

(i) where the proceeding is commenced by certificate under Part I or II, the amount of the set fine for the offence or if none, $300, or

(ii) where the proceeding is commenced by information under Part III, $1,000.

Idem

(3) The justice shall not make an order under clause (2) (*b*) or (*c*) unless the prosecutor shows cause why an order under the immediately preceding clause should not be made.

Order for detention

(4) Where the prosecutor shows cause why the detention of the defendant in custody is justified to ensure his appearance in court, the justice shall order the defendant to be detained in custody until he is dealt with according to law.

Reasons

(5) The justice shall include in the record a statement of his reasons for his decision under subsection (1), (2) or (4).

Evidence at hearing

(6) In a proceeding under subsection (1), the justice may receive and base his decision upon information he considers

credible or trustworthy in the circumstances of each case except that the defendant shall not be examined or cross-examined in respect of the offence with which he is charged.

Adjournments

(7) A proceeding under subsection (1) shall not be adjourned for more than three days without the consent of the defendant. 1979, c. 4, s. 134.

Expediting trial of person in custody

135.—(1) Where a defendant is not released from custody under section 133 or 134, he shall be brought before the court forthwith and, in any event, within eight days.

Further orders

(2) The justice presiding upon any appearance of the defendant in court may, upon the application of the defendant or prosecutor, review any order made under section 134 and make such further or other order under section 134 as to him seems appropriate in the circumstances. 1979, c. 4, s. 135.

Appeal

136. A defendant or the prosecutor may appeal from an order or refusal to make an order under section 134 or 135 and the appeal shall be to the county or district court of the county or district in which the adjudication was made and shall be conducted in accordance with the rules made under section 123. 1979, c. 4, s. 136.

Appointment of agent for appearance

137.—(1) A person who is released upon deposit under subsection 133 (3) or clause 134 (2) (*c*) may appoint the clerk of the court to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to apply the amount so deposited toward payment of the fine and costs imposed by the court upon the conviction, and the clerk shall act as agent under this subsection without fee.

Returns to court

(2) An officer in charge or justice who takes a recognizance, money or security under section 133 or 134 shall make a return thereof to the court where the defendant is required to appear.

Returns to sureties

(3) The clerk of the court shall, upon the conclusion of proceedings, make a financial return to every person who deposited money or security under a recognizance and return the surplus, if any. 1979, c. 4, s. 137.

Recognizance binds for all appearances

138.—(1) The recognizance of a person to appear in a proceeding binds the person and his sureties in respect of all appearances required in the proceeding at times and places to which the proceeding is adjourned.

Recognizance binds independently of other charges

(2) A recognizance is binding in respect of appearances for the offence to which it relates and is not vacated upon the arrest, discharge or conviction of the defendant upon another charge.

Liability of principal

(3) The principal to a recognizance is bound for the amount of the recognizance due upon forfeiture.

Liability where sureties

(4) The principal and each surety to a recognizance are bound, jointly and severally, for the amount of the recognizance due upon forfeiture for non-appearance. 1979, c. 4, s. 138.

Application by surety to be relieved

139.—(1) A surety to a recognizance may, by application in writing to the court at which the defendant is required to appear, apply to be relieved of his obligation under the recognizance and the court shall thereupon issue a warrant for the arrest of the defendant.

Certificate of arrest

(2) When a police officer arrests the defendant under a warrant issued under subsection (1), he shall bring the defendant before a justice under section 134 and certify the arrest by certificate in the prescribed form and deliver the certificate to the court.

Vacating of recognizance

(3) The receipt of the certificate by the court under subsection (2) vacates the recognizance and discharges the sureties. 1979, c. 4, s. 139.

Delivery of defendant by surety

140. A surety to a recognizance may discharge his obligation under the recognizance by delivering the defendant into the custody of the court at which he is required to appear at any time while it is sitting at or before the trial of the defendant. 1979, c. 4, s. 140.

Certificate of default

141.—(1) Where a person who is bound by recognizance does not comply with a condition of the recognizance, a justice having knowledge of the facts shall endorse on the recognizance a certificate in the prescribed form setting out,

(*a*) the nature of the default;

(*b*) the reason for the default, if it is known;

(*c*) whether the ends of justice have been defeated or delayed by reason of the default; and

(*d*) the names and addresses of the principal and sureties.

Certificate as evidence

(2) A certificate that has been endorsed on a recognizance under subsection (1) is evidence of the default to which it relates.

Application for forfeiture

(3) The clerk of the court shall transmit the endorsed recognizance to the clerk of the county or district court of the same county or district and, upon its receipt, the endorsed recognizance constitutes an application for the forfeiture of the recognizance.

Notice of hearing

(4) A judge of the county or district court shall fix a time and place for the hearing of the application by the county or district court and the clerk of the county or district court shall, not less than ten days before the time fixed for the hearing, deliver notice to the prosecutor and to each principal and, where the application is for forfeiture for non-appearance, each surety named in the recognizance, of the time and place fixed for the hearing and requiring each principal and surety to show cause why the recognizance should not be forfeited.

Order as to forfeiture

(5) The county or district court may, after giving the parties an opportunity to be heard, in its discretion grant or refuse the application and make any order in respect of the forfeiture of the recognizance that the court considers proper.

Collection on forfeiture

(6) Where an order for forfeiture is made under subsection (5),

(*a*) any money or security forfeited shall be paid over by the person who has custody of it to the person who is entitled by law to receive it; and

(*b*) the principal and surety become judgment debtors of the Crown jointly and severally in the amount forfeited under the recognizance and the amount may be collected in the same manner as money owing under a judgment of the county or district court. 1979, c. 4, s. 141.

Search Warrants

Search warrant

142.—(1) Where a justice is satisfied by information upon oath that there is reasonable ground to believe that there is in any building, receptacle or place,

(*a*) anything upon or in respect of which an offence has been or is suspected to have been committed; or

(*b*) anything that there is reasonable ground to believe will afford evidence as to the commission of an offence,

he may at any time issue a warrant in the prescribed form under his hand authorizing a police officer or person named

therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or another justice in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated to be dealt with by him according to law.

Expiration

(2) Every search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue.

When to be executed

(3) Every search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice by the warrant otherwise authorizes. 1979, c. 4, s. 142.

Detention of things seized

143.—(1) Where any thing is seized and brought before a justice, he shall by order,

(*a*) detain it or direct it to be detained in the care of a person named in the order; or

(*b*) direct it to be returned,

and the justice may in the order authorize the examination, testing, inspection or reproduction of the thing seized upon such conditions as are reasonably necessary and directed in the order, and may make any other provision as in the opinion of the justice is necessary for its preservation.

Time limit for detention

(2) Nothing shall be detained under an order made under subsection (1) for a period of more than three months after the time of seizure unless, before the expiration of that period,

(*a*) upon application, a justice is satisfied that having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders; or

(*b*) proceedings are instituted in which the thing detained may be required.

Application for examination and copying

(3) Upon the application of the defendant, prosecutor or person having an interest in a thing detained under subsection (1), a justice may make an order for the examination, testing, inspection or reproduction of any thing detained upon such conditions as are reasonably necessary and directed in the order.

Application for release

(4) Upon the application of a person having an interest in a thing detained under subsection (1), and upon notice to the

defendant, the person from whom the thing was seized, the person to whom the search warrant was issued and any other person who has an apparent interest in the thing detained, a justice may make an order for the release of any thing detained to the person from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of an investigation or proceeding.

Appeal where order by justice of the peace

(5) Where an order or refusal to make an order under subsection (3) or (4) is made by a justice of the peace, an appeal lies therefrom in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate. 1979, c. 4, s. 143.

Examination or seizure of documents where privilege claimed

144.—(1) Where under a search warrant a person is about to examine or seize a document that is in the possession of a lawyer and a solicitor-client privilege is claimed on behalf of a named client in respect of the document, the person shall, without examining or making copies of the document,

(*a*) seize the document and place it, together with any other document seized in respect of which the same claim is made on behalf of the same client, in a package and seal and identify the package; and

(*b*) place the package in the custody of the clerk of the court in the jurisdiction of which the seizure was made or, with the consent of the person and the client, in the custody of another person.

Opportunity to claim privilege

(2) No person shall examine or seize a document that is in the possession of a lawyer without giving him a reasonable opportunity to claim the privilege under subsection (1).

Examination of documents in custody

(3) A judge may, upon the *ex parte* application of the lawyer, by order authorize the lawyer to examine or make a copy of the document in the presence of its custodian or the judge, and the order shall contain such provisions as are necessary to ensure that the document is repackaged and resealed without alteration or damage.

Application to determine privilege

(4) Where a document has been seized and placed in custody under subsection (1), the client by or on whose behalf the claim of solicitor-client privilege is made may apply to a judge for an order sustaining the privilege and for the return of the document.

Limitation

(5) An application under subsection (4) shall be by notice of motion returnable not later than thirty days after the date on which the document was placed in custody.

Attorney General a party

(6) The person who seized the document and the Attorney General are parties to an application under subsection (4) and entitled to at least three days notice thereof.

Private hearing and scrutiny by judge

(7) An application under subsection (4) shall be heard in private, and, for the purposes of the hearing, the judge may examine the document and, if he does so, shall cause it to be resealed.

Order

(8) The judge may, by order,

(*a*) declare that the solicitor-client privilege exists or does not exist in respect of the document;

(*b*) direct that the document be delivered up to the appropriate person.

Release of document where no application under subs. (4)

(9) Where it appears to a judge upon the application of the Attorney General or person who seized the document that no application has been made under subsection (4) within the time limit prescribed by subsection (5), the judge shall order that the document be delivered to the applicant. 1979, c. 4, s. 144.

PART VIII

ORDERS ON APPLICATION UNDER STATUTES

Orders under statutes

145. Where, by any other Act, proceedings are authorized to be taken before a court or a justice for an order, including an order for the payment of money, this Act applies, with necessary modifications, to the proceeding in the same manner as to a proceeding commenced under Part III, and for the purpose,

(*a*) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and

(*b*) in place of a plea, the defendant shall be asked whether or not he wishes to dispute the making of the order. 1979, c. 4, s. 145.

PART IX

COMMENCEMENT AND TRANSITION

Application

146.—(1) This Act, except Parts I and II, applies to offences in respect of which proceedings are commenced after the 31st day of March, 1980.

Idem, Part I

(2) Part I applies to offences occurring after the 31st day of March, 1980.

Idem, Part II

(3) Part II applies to offences occurring after that Part comes into force. 1979, c. 4, s. 146, *revised*.

Proclamation of Part II

147. Part II does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1979, c. 4, s. 146, s. 149, *revised*.

Application of R.S.O. 1970, c. 450

148. *The Summary Convictions Act*, being chapter 450 of the Revised Statutes of Ontario, 1970, continues to apply in respect of offences to which this Act does not apply under section 146. 1979, c. 4, s. 147, *revised*.

CHAPTER 401

Provincial Parks Act

1. In this Act, Interpretation

(*a*) "assistant superintendent" means a person who is designated by the Minister as an assistant superintendent for the purposes of this Act and the regulations;

(*b*) "conservation officer" means a conservation officer appointed under the *Game and Fish Act*; R.S.O. 1980, c. 182

(*c*) "district manager" means the person in charge of the administrative district of the Ministry of Natural Resources in which a provincial park is situate;

(*d*) "master plan" means a program and policy, or any part thereof, prepared from time to time in respect of a provincial park or proposed provincial park and includes the maps, texts and other material describing such program and policy;

(*e*) "Minister" means the Minister of Natural Resources;

(*f*) "park warden" means a person who is designated by the Minister as a park warden for the purposes of this Act and the regulations;

(*g*) "provincial park" includes provincial camp grounds, provincial picnic grounds and provincial camp and picnic grounds;

(*h*) "public lands" means lands belonging to Her Majesty in right of Ontario, whether or not covered with water;

(*i*) "regulations" means the regulations made under this Act;

(*j*) "superintendent" means a person who is designated by the Minister as a superintendent to have charge of a provincial park. 1976, c. 56, s. 1.

Parks dedicated to public

2. All provincial parks are dedicated to the people of the Province of Ontario and others who may use them for their healthful enjoyment and education, and the provincial parks shall be maintained for the benefit of future generations in accordance with this Act and the regulations. R.S.O. 1970, c. 371, s. 2.

Existing parks continued

3.—(1) All provincial parks in existence when this Act comes into force shall continue to be reserved, set apart and known as provincial parks.

New parks and additions, etc.

(2) The Lieutenant Governor in Council may set apart as a provincial park any area in Ontario, may increase or decrease the area of any provincial park and may delimit any provincial park. R.S.O. 1970, c. 371, s. 3 (1, 2).

Acquisition of land R.S.O. 1980, c. 279

(3) Land may be acquired under the *Ministry of Government Services Act* for the purposes of this Act. R.S.O. 1970, c. 371, s. 3 (3); 1973, c. 2, s. 2.

Unopened road allowances vested in Crown R.S.O. 1980, c. 302

(4) Notwithstanding the *Municipal Act*, every unopened road allowance that is within a provincial park and that has not been closed and conveyed shall be deemed to have been vested in the Crown from the day on which the provincial park was established or the area in which the unopened road allowance is located was added to a provincial park, as the case may be, and the Minister may close to travel any such road allowance one month after having caused notice of the proposed closing to be published once a week for four consecutive weeks in a newspaper having general circulation in the locality in which the road allowance is located or one month after having caused such a notice to be posted in a conspicuous place at or near the road allowance.

Municipal purposes

(5) For municipal purposes, any land set apart as a provincial park or added thereto shall, so long as it remains part of the provincial park, be deemed to be separated from any municipality of which it formed a part immediately before it became a provincial park or a part thereof.

Judicial purposes

(6) For judicial purposes, any land set apart as a provincial park or added thereto shall continue to form part of the county, if any, of which it formed a part immediately before it became a provincial park or a part thereof. R.S.O. 1970, c. 371, s. 3 (4-6).

Hunting in designated provincial parks R.S.O. 1980, c. 182

4. The Lieutenant Governor in Council may designate any provincial park or any part of a provincial park as an area in which section 26 of the *Game and Fish Act* does not apply

from and including the Tuesday following the second Monday in October to and including the 31st day of March next following. R.S.O. 1970, c. 371, s. 4.

Classification of provincial parks

5. The Lieutenant Governor in Council may classify any provincial park as a natural environmental park, a nature reserve park, a primitive park, a recreational park, a wild river park or such other class of park as he may designate. R.S.O. 1970, c. 371, s. 5.

Advisory committees

6. The Minister, with the approval of the Lieutenant Governor in Council, may appoint committees to perform such advisory functions as are considered necessary or desirable in connection with the administration of one or more of the provincial parks and fix the terms of reference and procedures of such committees. R.S.O. 1970, c. 371, s. 6.

Administration

7.—(1) Each provincial park is under the control and management of the Minister and shall be under the charge of a district manager or a superintendent designated by the Minister. R.S.O. 1970, c. 371, s. 7 (1); 1976, c. 56, s. 4, *part*.

Zoning in provincial parks

(2) Without limiting the generality of subsection (1), in the management of a provincial park the Minister may from time to time define areas on maps or plans, designate such areas as zones, and classify any zone as an historic zone, multiple use zone, natural zone, primitive zone, recreational zone or otherwise as he considers proper. R.S.O. 1970, c. 371, s. 7 (2).

Idem

(3) Without limiting the generality of subsection (1), the district manager or the superintendent, with the approval of the Minister, may, in respect of the provincial park under his charge,

(*a*) construct and operate on public lands golf courses, bowling greens or other facilities for sports or amusement;

(*b*) construct and operate on public lands restaurants, refreshment booths, shops, sleeping accommodations and other facilities for the convenience of the public;

(*c*) construct and operate on public lands toilet, dressing-room, picnic, camping, cooking, bathing, parking and other facilities for the convenience of the public;

(*d*) acquire and operate boats, vehicles and other means of transportation in connection with the park;

(*e*) make agreements with persons with respect to the establishment or operation by them of any works, facilities or services on public lands;

(*f*) prescribe, by the erection, posting or other display of notices, the time or times of the day or year during which the park or any part thereof is open or closed, as the case may be, for the use of the public. R.S.O. 1970, c. 371, s. 7 (3); 1976, c. 56, s. 4, *part*.

Master plan

8.—(1) The Minister may prepare a master plan in respect of any provincial park or proposed provincial park.

Idem

(2) The Minister may review a master plan from time to time and make amendments thereto. 1976, c. 56, s. 2.

Access roads to provincial parks, in municipalities

9.—(1) The Minister and any municipality, with the approval of the Lieutenant Governor in Council, may enter into agreement for the construction or maintenance of a road or the reconstruction or maintenance of an existing road under the jurisdiction and control of the municipality for the purpose of providing access to a provincial park, and the provincial share of the cost thereof may be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 371, s. 8 (1); 1972, c. 1, s. 87 (1).

Idem

(2) A road constructed, reconstructed or maintained under an agreement made under subsection (1) remains under the jurisdiction and control of the municipality. R.S.O. 1970, c. 371, s. 8 (2).

Idem, in unorganized territory

R.S.O. 1980, c. 482

(3) The Minister, with the approval of the Lieutenant Governor in Council, may arrange with the road commissioners elected under the *Statute Labour Act* or with a person who is the owner of land in territory without municipal organization for the construction or maintenance of a road therein for the purpose of providing access to a provincial park, and the provincial share of the cost thereof may be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 371, s. 8 (3); 1972, c. 1, s. 87 (2).

Gifts

10.—(1) The Minister may receive and take from any person by grant, gift, devise, bequest or otherwise, any property, real or personal, or any interest therein, for the purposes of a provincial park. R.S.O. 1970, c. 371, s. 9 (1).

Surface rights

(2) Where only the surface rights in lands are received and taken by the Minister under subsection (1) and the mines and minerals are not vested in the Crown, subsection 20 (1) does

not apply to such lands. R.S.O. 1970, c. 371, s. 9 (2); 1972, c. 27, s. 1.

Inquiry into leases, etc.

11.—(1) The Minister may inquire into and ascertain all the facts concerning all leases and other agreements in respect of any lands in a provincial park.

Cancellation of leases

(2) If the Minister is satisfied that any person claiming to be entitled to any rights in respect of public lands in a provincial park, or any person claiming under or through him, has been guilty of a fraud or imposition, or has contravened any of the conditions of his lease or other agreement, he may cancel such lease or other agreement and resume the land and dispose of it as if the lease or other agreement had never been made, and upon such cancellation all moneys paid in respect of such lease or other agreement remain the property of the Crown and the improvements, if any, on the land are forfeited to the Crown.

Power to acquire possession

(3) Where a person refuses to deliver up land or where a trespasser is in possession, the Minister may obtain possession in a manner similar to that provided in section 23 of the *Public Lands Act*. R.S.O. 1970, c. 371, s. 10.

R.S.O. 1980, c. 413

Use and occupation of public lands

12. Except as provided by this Act or the regulations, no person shall use or occupy any public lands in a provincial park. R.S.O. 1970, c. 371, s. 11.

Powers of superintendent, etc.

13. In a provincial park, the district manager, superintendent and assistant superintendent and a park warden and conservation officer have all the power and authority of a member of the Ontario Provincial Police Force. 1976, c. 56, s. 3.

Seizure and confiscation

14. Any person having the power and authority of a member of the Ontario Provincial Police Force may seize any motor or other vehicle, or any aircraft, or any boat, skiff, canoe, punt or other vessel, or any equipment or appliance, or any other article used in contravention of this Act and found in the possession of a person suspected of having committed an offence against this Act or the regulations, and upon conviction therefor the court may order the chattel so confiscated to be forfeited to the Crown in right of Ontario, and after the expiration of thirty days it may be disposed of in such manner as the Minister considers proper. R.S.O. 1970, c. 371, s. 13.

Lost, mislaid or abandoned property

15.—(1) Any lost, mislaid or abandoned property coming into the custody of the district manager, superintendent or

other person in charge of a provincial park and not claimed by the owner within three months is the property of the Crown in right of Ontario and may be sold under the direction of the Minister, but, where any such property is perishable or has no commercial value, it may be given to a charitable institution or destroyed. R.S.O. 1970, c. 371, s. 14 (1); 1976, c. 56, s. 4, *part*.

Idem

(2) Where a person establishes to the satisfaction of the Minister within one year of the date of sale that he was the owner of property sold under subsection (1), the Minister may direct the payment to such person of an amount equal to the price received for the property less the cost of the sale and other expenses incurred in connection with the property. R.S.O. 1970, c. 371, s. 14 (2).

Roads, trails and portages

16.—(1) The district manager or superintendent in charge of a provincial park may open or close to travel any road or trail in the provincial park that is not under the control of the Ministry of Transportation and Communications, or any portage in the provincial park. R.S.O. 1970, c. 371, s. 15 (1); 1972, c. 1, s. 100 (2); 1976, c. 56, s. 4, *part*.

Prohibition against travel on closed road

(2) No person who has knowledge of the closing of a road or trail under subsection (1) shall travel thereon. R.S.O. 1970, c. 371, s. 15 (2).

Interpretation

17.—(1) In this section, "road" includes a trail. 1971, c. 16, s. 1, *part*.

Stop signs

(2) The district manager or superintendent in charge of a provincial park may erect at the entrance to the provincial park or at the intersection of any roads therein a stop sign conforming with the regulations under the *Highway Traffic Act*. 1971, c. 16, s. 1, *part*; 1976, c. 56, s. 4, *part*.

R.S.O. 1980, c. 198

Stop at entrances

(3) The driver or operator of a vehicle, upon approaching a stop sign at the entrance to a provincial park, shall bring the vehicle to a full stop at a clearly marked stop line or, if none, then immediately before proceeding past the stop sign.

Stop at through road

(4) The driver or operator of a vehicle,

(*a*) upon approaching a stop sign at an intersection in a provincial park, shall bring the vehicle to a full stop at a clearly marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; and

(*b*) upon entering the intersection, shall yield the right of way to traffic in the intersection or approaching the intersection on another road so closely that it constitutes an immediate hazard and having so yielded the right of way may proceed with caution and the traffic approaching the intersection on another road shall yield the right of way to the vehicle so proceeding in the intersection. 1971, c. 16, s. 1, *part*.

Sale of liquor R.S.O. 1980, c. 243

18. No licence or other authority shall be issued for the sale of liquor as defined in the *Liquor Control Act* in a provincial park. R.S.O. 1970, c. 371, s. 16.

Conservation of wild life, etc. R.S.O. 1980, c. 182

19. Subject to the *Game and Fish Act* and the regulations thereunder, the Minister may take such measures as he considers proper for the protection of fish, animals and birds and any property of the Crown in a provincial park. R.S.O. 1970, c. 371, s. 17.

Prospecting, mining, etc.

20.—(1) Subject to the regulations, prospecting and the staking out of mining claims or the development of mineral interests or the working of mines in provincial parks is prohibited.

Licences of occupation

(2) A licence of occupation may be issued under the regulations to the recorded holder of a lawfully staked mining claim in a provincial park.

No title acquired in surface rights

(3) The staker or recorded holder of a mining claim or the holder of a licence of occupation issued to the recorded holder of a mining claim does not acquire any right, title or interest in or to the surface rights in the land. R.S.O. 1970, c. 371, s. 18 (1-3).

Necessary use of surface rights

(4) Where it is necessary to interfere with the surface rights in any such land in order to carry on mining operations, the district manager or superintendent in charge of the provincial park in which the land is may permit such interference with the surface rights as he considers necessary. R.S.O. 1970, c. 371, s. 18 (4); 1976, c. 56, s. 4, *part*.

Regulations

21.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) for the care, preservation, improvement, control and management of the provincial parks;

(*b*) regulating and controlling prospecting or the staking out of mining claims or the development of mineral interest or the working of mines in provincial parks;

(*c*) prohibiting or regulating and controlling the occupation of public lands in provincial parks or designating areas therein in which land may be leased or occupied under licence of occupation and describing such areas by metes and bounds or in relation to highways, lakes, rivers or railways;

(*d*) regulating and controlling the use of lands in provincial parks;

(*e*) prohibiting the erection of buildings or structures in provincial parks, or regulating and controlling the nature, cost, type of construction or the location of buildings or structures that may be erected therein;

(*f*) governing the granting, issue, form, renewal, transfer and cancellation of leases, licences of occupation and other rights to public lands in provincial parks and prescribing terms and conditions in connection therewith;

(*g*) prohibiting or regulating and controlling the use or keeping of horses, dogs and other animals in provincial parks;

(*h*) prohibiting or regulating and controlling the erection, posting or other display of notices, signs, signboards and other advertising devices in provincial parks;

(*i*) prohibiting or regulating and controlling the use, setting out and extinguishment of fires in provincial parks;

(*j*) prohibiting or regulating and controlling pedestrian, vehicular, boat or air traffic in provincial parks;

(*k*) prohibiting or regulating and controlling and issuing permits for the use of vehicles, boats or aircraft or any defined class thereof in provincial parks;

(*l*) for issuing permits to persons to enter and travel in provincial parks;

(*m*) prohibiting or regulating, controlling and licensing trades, businesses, amusements, sports, occupations and other activities or undertaking in provincial parks;

(*n*) regulating, controlling and licensing and requiring the use of guides in provincial parks;

(*o*) prescribing the fees or rentals payable for any licence, permit, lease or other right issued, made or given in respect of a provincial park;

(*p*) prescribing the maximum periods of stay of persons, vehicles, boats, vessels or aircraft in provincial parks;

(*q*) providing for the imposition and collection of fees for entrance into provincial parks of persons, vehicles, boats or aircraft;

(*r*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Application

(2) Any regulation under subsection (1) may be made applicable to all provincial parks or to any provincial park or to any class of provincial park or to any part or zone of a provincial park. R.S.O. 1970, c. 371, s. 19.

Offence

22.—(1) Every person who contravenes any of the provisions of this Act or of the regulations is guilty of an offence and on conviction is liable to a fine of not more than $500.

Restraint by action

(2) Where any regulation is contravened, in addition to any other remedy and to any penalty, the contravention may be restrained by action at the instance of the Minister. R.S.O. 1970, c. 371, s. 20.

Niagara and St. Lawrence Parks not affected

23. Nothing in this Act applies to or affects any park under the management of The Niagara Parks Commission or The St. Lawrence Parks Commission. R.S.O. 1970, c. 371, s. 21.

CHAPTER 402

Provincial Parks Municipal Tax Assistance Act

Interpretation

1. In this Act,

(*a*) "municipality" means a city, town, village, township and improvement district;

(*b*) "Ministry" means the Ministry of Intergovernmental Affairs;

(*c*) "provincial park" means a provincial park, a park operated under the *Niagara Parks Act*, the *St. Clair Parkway Commission Act*, or the *St. Lawrence Parks Commission Act*, a wilderness area and a historical park or part thereof as determined under section 2. 1974, c. 110, s. 1. R.S.O. 1980, cc. 317, 485, 486

Determination by Minister of Natural Resources

2.—(1) Subject to section 7, the Minister of Natural Resources shall annually, on or before the 1st day of February, determine and advise the Ministry of,

(*a*) the names of those municipalities in which there was located on the next preceding 1st day of January, one or more provincial parks or any part thereof;

(*b*) the number of hectares to the nearest whole hectare in each provincial park or part thereof so located within each such municipality. 1974, c. 110, s. 2 (1); 1978, c. 87, s. 44 (1).

Parks deemed not separated from municipalities R.S.O. 1980, c. 401

(2) For the purposes of this Act, notwithstanding subsection 3 (5) of the *Provincial Parks Act*, any land set apart as a provincial park or added thereto shall be deemed not to be separated from the municipality of which it formed a part immediately before it became a provincial park or a part thereof.

Determination final

(3) The determination of the Minister of Natural Resources under subsection (1) is final. 1974, c. 110, s (2, 3).

Determination by Ministry

3.—(1) Subject to section 7, the Ministry shall annually, on or before the 1st day of February determine, in respect of each municipality whose jurisdiction includes any part of the Niagara Escarpment Planning Area within the meaning

R.S.O. 1980, cc. 316, 368

of the *Niagara Escarpment Planning and Development Act,* or any part of the Parkway Belt Planning Area within the meaning of the *Parkway Belt Planning and Development Act,* the number of hectares to the nearest whole hectare of all land in such municipality situate within the planning areas and owned on the next preceding 1st day of January by Her Majesty in right of Ontario, excluding,

R.S.O. 1980, c. 311

(*a*) "highways" within the meaning of the *Municipal Tax Assistance Act*;

(*b*) land that is included in a provincial park; and

(*c*) land upon which taxes or payments in lieu of taxes are payable to the municipality in the year in respect of such land under any other general or special Act. 1974, c. 110, s. 3 (1); 1978, c. 87, s. 44 (2).

Determination final

(2) The determination of the Ministry under subsection (1) is final. 1974, c. 110, s. 3 (2).

Payments

4. The Ministry may pay in each year,

(*a*) to a municipality in which there are one or more provincial parks,

(i) $12.35 per hectare for each of the first forty hectares of each such park and $5 per hectare for each hectare in excess of forty hectares in each such park up to 4,000 hectares in each such park and $1.25 per hectare for each hectare in excess of 4,000 hectares in each such park, or

(ii) $100,

whichever is the greater; and

(*b*) to each municipality in respect of which a determination has been made under section 3,

(i) $12.35 per hectare for each of the first forty hectares of such land and $5 per hectare for each hectare in excess of forty hectares up to 4,000 hectares and $1.25 per hectare for each hectare in excess of 4,000 hectares, or

(ii) $100,

whichever is the greater. 1974, c. 110, s. 4; 1978, c. 87, s. 44 (3).

Municipal assessment deemed increased

5.—(1) For the purposes of any general or special Act, the equalized assessment of a municipality that receives a payment under this Act shall be deemed for apportionment purposes, other than for school purposes or for county purposes or for apportionment between merged areas, to be increased by an amount that would have produced the amount of the payment received by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes other than school purposes on commercial and industrial assessment in the preceding year by the total equalized commercial and industrial assessment for the preceding year, multiplied by 1,000.

Exclusion of taxes added to collector's roll under R.S.O. 1980, c. 31, s. 33

(2) In determining the taxes levied on commercial and industrial assessment under subsection (1), there shall be excluded taxes on such assessment under section 33 of the *Assessment Act*. 1974, c. 110, s. 5.

Moneys

6.—(1) Subject to subsection (2), the moneys required for the purposes of this Act are payable out of such moneys as may be appropriated therefor by the Legislature.

Idem

(2) In respect of a park owned and operated by a commission established under an Act mentioned in clause 1 (*c*), the moneys required for the purposes of this Act are payable out of the funds of the commission.

CHAPTER 403

Provincial Schools Negotiations Act

1. In this Act, Interpretation

(a) "agreement" means a written collective agreement made pursuant to this Act between the Authority and the employee organization in respect of matters that are negotiable under this Act;

(b) "Authority" means the Provincial Schools Authority;

(c) "Commission" means the Education Relations Commission under the *School Boards and Teachers Collective Negotiations Act*; R.S.O. 1980, c. 464

(d) "employee organization" means the organization that is formed pursuant to this Act by teachers;

(e) "principal" means a teacher who is appointed to be in charge of a school;

(f) "school" means a school operated by,

(i) the Ministry of Correctional Services,

(ii) the Ministry of Education, or

(iii) the Ministry of Health,

but does not include the Ontario Teacher Education College, a summer course or a correspondence course;

(g) "teacher" means a person,

(i) who holds a valid certificate of qualification as a teacher in an elementary or secondary school in Ontario,

(ii) who holds a letter of standing granted by the Minister under the *Education Act*, or R.S.O. 1980, c. 129

(iii) whose appointment as a teacher has been authorized by the Minister of Education,

and who is employed in a school under a contract of employment as a teacher;

(*h*) "vice-principal" means a teacher who is appointed to be in charge of a school in the absence of the principal;

(*i*) "written collective understanding" means a written collective agreement in operation immediately before the 18th day of July, 1975 respecting terms of employment of teachers. 1975, c. 81, s. 1.

Provincial Schools Authority

2.—(1) There shall be a Provincial Schools Authority that shall consist of five members appointed by the Lieutenant Governor in Council.

Chairman and vice-chairman

(2) The Lieutenant Governor in Council shall designate one of the members of the Authority as chairman and one as vice-chairman.

Secretary

(3) The Authority shall appoint a secretary.

Remuneration

(4) The members and the secretary of the Authority shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

Moneys

(5) The moneys required for the purposes of the Authority are payable out of moneys appropriated therefor by the Legislature. 1975, c. 81, s. 2, *revised*.

Teachers to be employees of Authority

3. Commencing on the 18th day of July, 1975,

(*a*) the teachers cease to be Crown employees and their contracts of employment are vested in the Authority;

(*b*) the sick leave credits and the termination of employment benefits standing to the credit of a teacher whose contract of employment is vested in the Authority under clause (*a*) shall stand to the credit of the teacher in the system of sick leave credit gratuities of the Authority; and

R.S.O. 1980, c. 228

(*c*) the *Labour Relations Act* does not apply to the teachers or to the Authority. 1975, c. 81, s. 3.

Employment of teachers

4.—(1) Subject to subsection (2), the Authority is responsible for all matters relating to the employment of teachers, and for such purpose has all the powers and is subject to the duties and liabilities of a board under the *Education Act*.

R.S.O. 1980, c. 129

Administration

(2) All matters relating to administration in respect of teachers who teach in a school operated by a Ministry referred to in clause 1 (*f*) are the responsibility of the deputy minister of the Ministry, and each such Ministry that operates a school shall provide the salaries and benefits of the teachers of such school in accordance with the contracts of employment of such teachers.

Interim provision

(3) Every written collective understanding is binding on the Authority and the teachers covered by the written collective understanding.

Application of R.S.O. 1980, c. 494

(4) For the purposes of the *Teachers' Superannuation Act*, a teacher employed by the Authority shall be deemed to be employed as a teacher by the minister of a ministry of the Goverment of Ontario.

Continuity of sick leave credits

(5) For the purposes of subsection 158 (7) of the *Education Act*, employment by the Authority shall be deemed to be employment with the Ministry of Education.

Application of R.S.O. 1980, c. 129, Part IX

(6) Part IX of the *Education Act* applies with necessary modifications to the teachers and to the Authority. 1975, c. 81, s. 4.

Employee organization

5. Where the teachers propose to negotiate an agreement, they shall, for such purpose, form one employee organization, which shall represent them for the purposes of this Act. 1975, c. 81, s. 5.

Application of R.S.O. 1980, c. 464

6.—(1) The provisions of the *School Boards and Teachers Collective Negotiations Act*, except clauses 1 (*a*) to (*g*), (*i*) to (*k*), (*m*) and (*n*), section 4, clauses 7 (*a*) and (*b*), sections 59 and 62, clause 73 (*d*) and subsection 77 (2), apply with necessary modifications, as if such provisions were enacted in and formed part of this Act, and references therein to "board", "branch affiliate" and "parties" shall be deemed to be references respectively to the Authority, the employee organization, and the Authority and the employee organization.

Form of contracts

(2) For the purposes of subsection 54 (2) of the *School Boards and Teachers Collective Negotiations Act*, the teachers who are employed in schools immediately before the 18th day of July, 1975 shall be deemed to have contracts of employment in the form of contract prescribed by the regulations under the *Education Act*.

Where approval required

(3) Where the Authority proposes to act in accordance with subsection 68 (1) or (4) of the *School Boards and Teachers Collective Negotiations Act*, it shall do so only with the approval of the Minister responsible for the Ministry that operates the school or schools that will be affected.

Contravention by employee organization R.S.O. 1980, c. 464

(4) For the purposes of subsection 77 (1) of the *School Boards and Teachers Collective Negotiations Act*, "person" includes the employee organization and the Authority.

Compellability of witnesses

(5) In addition to the persons referred to in section 81 of the *School Boards and Teachers Collective Negotiations Act*, a minister of the Crown and his deputy minister are not compellable witnesses in any proceedings under this Act. 1975, c. 81, s. 6.

CHAPTER 404

Psychologists Registration Act

Interpretation

1. In this Act,

(*a*) "Board" means the Ontario Board of Examiners in Psychology appointed under this Act;

(*b*) "certificate of registration" means a certificate of registration as a registered psychologist;

(*c*) "registered psychologist" means a person who is registered under this Act. R.S.O. 1970, c. 372, s. 1.

Board continued

2.—(1) The board known as the Ontario Board of Examiners in Psychology is continued and shall be composed of five registered psychologists appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may fill any vacancies in the membership of the Board.

Qualification

(2) At least two of the members of the Board shall be and at least two members shall not be principally engaged as members of the teaching staff of a university. R.S.O. 1970, c. 372, s. 2.

Corporation

3. The members of the Board from time to time are a corporation. R.S.O. 1970, c. 372, s. 3.

Quorum

4. A majority of the members of the Board is a quorum. R.S.O. 1970, c. 372, s. 4.

Regulations

5. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

(*a*) fixing the term of office and remuneration of the members of the Board and providing for the payment of necessary expenses of the Board in the conduct of its business;

(*b*) prescribing the powers of the Board and the procedure of the Board at its meetings;

(*c*) providing for the issuance and renewal of certificates of registration and fixing the fees payable therefor;

(*d*) providing for the holding of examinations and fixing the fees payable therefor;

(*e*) governing the suspension or cancellation of certificates of registration, the causes and procedure therefor;

(*f*) prescribing the duties and remuneration of examiners and other persons employed by the Board;

(*g*) generally for carrying out the intent and purpose of this Act. R.S.O. 1970, c. 372, s. 5.

Qualification for registration

6.—(1) The Board shall grant a certificate of registration to any person who furnishes evidence satisfactory to the Board that he,

(*a*) has received a doctoral degree based upon a program of studies whose content was primarily psychological from an educational institution approved by the Board;

(*b*) has had at least one year of experience acceptable to the Board; and

(*c*) has passed the examinations required by the Board.

Where Board may dispense with examination

(2) The Board in its discretion may waive examination of a candidate for registration if the candidate holds a diploma granted by the American Board of Examiners in Professional Psychology or has been certified or registered by the examining board of another province, state or country whose standards are considered by the Board to be at least the equivalent of the standards established by this Act. R.S.O. 1970, c. 372, s. 6.

Power to refuse registration

7. The Board after a hearing may refuse to grant a certificate of registration to any person who is found by the Board to be liable to have his certificate suspended or cancelled for any of the causes mentioned in the regulations. R.S.O. 1970, c. 372, s. 7.

Appeal

8.—(1) If the Board refuses or neglects to register a person, refuses or neglects to renew the registration of a person or suspends or cancels the registration of a person, the person aggrieved may, within three months from the day on which notice thereof was served, apply to the Divisional Court which upon due cause shown may make an order directing the Board to make the registration, renew the registration, remove the suspension or withdraw the cancellation, as the

case may be, or may make such other order as is warranted by the facts.

(2) Every such order is final and conclusive and shall be acted upon forthwith by the Board. R.S.O. 1970, c. 372, s. 8. Idem

9.—(1) The Board shall keep a register in which shall be entered the name of every person who has been granted a certificate of registration. Register to be kept

(2) The register shall be open to inspection by any person upon reasonable notice to the Board. R.S.O. 1970, c. 372, s. 9. Inspection of register

10.—(1) The Board may keep a register to be known as the "temporary register", in which shall be entered the name of every person who has received a degree within the meaning of section 6 but who has not met all the other requirements specified in section 6. Temporary register

(2) The temporary register shall be open to inspection by any person upon reasonable notice to the Board. Inspection

(3) Upon granting registration in the temporary register, the Board may fix the fee payable by the person so registered and the conditions, limitations and restrictions applicable to such person. Conditions of registration

(4) Upon any person so registered ceasing to comply with the conditions, limitations or restrictions applicable to such person, the Board may remove the name of the person from the temporary register. R.S.O. 1970, c. 372, s. 10. Removal of name

11.—(1) No person shall represent himself to be a psychologist unless he holds a certificate of registration. Prohibition

(2) A person represents himself to be a psychologist when he holds himself out to the public by any title, designation or description incorporating the words "psychological", "psychologist" or "psychology" and under such title, designation or description offers to render or renders services of any kind to one or more persons for a fee or other remuneration. Idem

(3) This section does not apply to a legally qualified medical practitioner or to a person in the course of his employment by the Government of Canada, the Government of Ontario or a university, or to a person registered in the temporary register under section 10. R.S.O. 1970, c. 372, s. 11. Exceptions

Treatment of mental disorders

12. No person who holds a certificate of registration shall treat any person for any type of mental disorder for a fee or other remuneration except on the request of or in association with a legally qualified medical practitioner. R.S.O. 1970, c. 372, s. 12.

Practice of medicine not authorized

13. Nothing in this Act authorizes a person who holds a certificate of registration to engage in any manner in the practice of medicine, surgery or midwifery. R.S.O. 1970, c. 372, s. 13.

Offence

14.—(1) Every person who contravenes any of the provisions of this Act is guilty of an offence and on conviction is liable to a fine of not more than $100 for the first offence and not more than $500 for any subsequent offence.

Disposition of fines

(2) The fines recovered for offences under this Act shall be paid to the Board. R.S.O. 1970, c. 372, s. 14.

CHAPTER 405

Public Accountancy Act

Interpretation

1. In this Act,

(*a*) "Council" means The Public Accountants Council for the Province of Ontario;

(*b*) "prescribed" means prescribed by the regulations made by the Council under this Act;

(*c*) "public accountant" means a person who either alone or in partnership engages for reward in public practice involving,

(i) the performance of services which include causing to be prepared, signed, delivered or issued any financial, accounting or related statement, or

(ii) the issue of any written opinion, report or certificate concerning any such statement,

where, by reason of the circumstances or of the signature, stationery or wording employed, it is indicated that such person or partnership acts or purports to act in relation to such statement, opinion, report or certificate as an independent accountant or auditor or as a person or partnership having or purporting to have expert knowledge in accounting or auditing matters, but does not include a person who engages only in bookkeeping or cost accounting or in the installation of bookkeeping, business or cost systems or who performs accounting or auditing functions exclusively in respect of,

(iii) any public authority or any commission, committee or emanation thereof, including a Crown company,

(iv) any bank, loan or trust company,

(v) any transportation company incorporated by Act of the Parliament of Canada, or

(vi) any other publicly-owned or publicly-controlled public utility organization;

(*d*) "qualifying body" means The Institute of Chartered Accountants of Ontario. R.S.O. 1970, c. 373, s. 1.

Council continued

2. The Public Accountants Council for the Province of Ontario is continued under that name as a body corporate with power to acquire, hold and dispose of land. R.S.O. 1970, c. 373, s. 2.

Composition of the Council

3.—(1) The Council shall consist of fifteen members,

(*a*) twelve of whom shall be appointed by the council of the qualifying body; and

(*b*) three of whom shall be elected in the prescribed manner by vote of the persons who are licensed under this Act but who are not members of the qualifying body.

Qualification of members

(2) No person shall be appointed or elected a member of the Council unless he holds a licence under this Act. R.S.O. 1970, c. 373, s. 3.

Certification of appointed members

4.—(1) The secretary of the qualifying body shall certify in writing the names of the persons appointed to the Council.

of elected members

(2) The election of persons to Council shall be certified in writing in the prescribed manner.

Certificate as evidence

(3) Every such certificate is for all purposes sufficient evidence of the appointment or election of the persons named therein. R.S.O. 1970, c. 373, s. 4.

Term of office

5.—(1) Every member of the Council shall hold office for a term of two years from the date of his appointment or election.

Idem

(2) Every member shall hold office until his successor is appointed or elected.

Re-appointment and re-election

(3) A retiring member of the Council is eligible for reappointment or re-election.

Vacancies

(4) Any vacancy in the office of a member of the Council, where more than four months of the term remain, shall be filled for the remainder of the term by the appointment of a member by the qualifying body or by the election of a member in the manner mentioned in clause 3 (1) (*b*), as the case requires.

(5) The Council may act notwithstanding a vacancy in its number occurring from any cause. R.S.O. 1970, c. 373, s. 5. Effect of vacancy

6.—(1) A member of the Council may at any time resign his office by giving notice to the Council. Resignation of member

(2) The Council may of its own motion and shall, in the case of an appointed member if so requested by the body by which the member was appointed, remove a member from his office for any prescribed cause. R.S.O. 1970, c. 373, s. 6. Removal of member

7. It is the duty of the Council to administer the provisions of this Act and in particular, but without limiting the generality of the foregoing, the functions of the Council include, Functions of Council

(*a*) the grant or refusal of licences, in accordance with this Act;

(*b*) the maintenance and, if thought fit, the publication of a roll of the persons for the time being licensed under this Act;

(*c*) the prescription of the fees payable on the grant or renewal of licences under this Act;

(*d*) the maintenance and improvement of the status and standards of professional qualifications of public accountants practising as such in Ontario;

(*e*) the consideration of matters of common interest and concern to public accountants, and the submission of representations to any government ministry or public authority with reference to any such matters;

(*f*) the provision of scholarships for students in public accountancy and of maintenance grants for such students whose means appear to the Council to be insufficient to enable them to pursue their studies;

(*g*) the conduct and encouragement, whether by means of financial assistance or otherwise, of research in accountancy;

(*h*) the exercise of the disciplinary powers conferred by this Act; and

(*i*) the prosecution of offences under this Act. R.S.O. 1970, c. 373, s. 7; 1972, c. 1, s. 2.

Meetings of the Council

8.—(1) The Council shall meet at such times and places as it may from time to time determine, provided that the Council shall hold at least one meeting in every period of three months to consider and determine applications for licences under this Act.

Extra-ordinary meetings

(2) The president of the Council may at any time convene an extraordinary meeting of the Council at such time and place as he may, by notice to the members of the Council, direct, and the conditions as to giving such notice shall be as may be prescribed. R.S.O. 1970, c. 373, s. 8.

Voting at meetings of the Council

9.—(1) Except as otherwise expressly provided by this section, all matters that arise for decision at any meeting of the Council shall be decided by a majority of votes of members present and voting by show of hands.

Assent required for certain resolutions

(2) No resolution of the Council relating to,

(*a*) any of the functions of the Council referred to in clause 7 (*h*) or (*i*);

(*b*) the making of regulations under section 31;

(*c*) the revocation or non-renewal of a licence granted under this Act; or

(*d*) the granting of an exemption to any person pursuant to subsection 14 (2) from any of the conditions of section 14, or the approval of conditions subject to which such exemption shall be granted,

is valid unless approved by the votes of at least three-quarters of the members of the Council present and voting thereon.

Notice

(3) No resolution of the Council relating to any of the matters mentioned in subsection (2) is valid unless the notice calling the meeting at which the resolution is moved has specified the general nature of the business to be transacted thereat. R.S.O. 1970, c. 373, s. 9.

Officers

10.—(1) The officers to be elected from among the members of the Council shall be a president, a vice-president, a secretary and such other officers as the Council considers necessary.

Election of officers

(2) The election of officers shall take place annually at the first ordinary meeting of the Council in each financial

year when all officers then in office shall retire but if otherwise qualified are eligible for re-election, and in the event of a tie vote for the election of the president or vice-president, the issue shall be decided by lot.

Term of office

(3) Subject to the provisions of this section, any officer elected by the Council shall continue in office for a term of one year and until his successor is elected.

Vacancies

(4) Every vacancy occurring in any office, by reason of the incumbent dying, resigning or otherwise ceasing to be a member of the Council during his term of office, shall be filled for the remainder of his term by the Council from among its members.

Registrar

(5) The Council may appoint a registrar who need not be a member of the Council and who shall perform such duties as are prescribed by the Council from time to time. R.S.O. 1970, c. 373, s. 10.

Quorum

11. At all meetings of the Council, eight members constitute a quorum. R.S.O. 1970, c. 373, s. 11.

Committees

12.—(1) The Council may from time to time appoint committees from among its members.

Delegation to committees

(2) The Council may delegate to any such committee, subject to such restrictions or conditions as the Council may think fit, any of its powers or duties, other than those referred to in subsection 9 (2), and may dissolve any such committee. R.S.O. 1970, c. 373, s. 12.

Roll of public accountants

13.—(1) The Council shall maintain a roll to be called "The Roll of Public Accountants in Ontario".

Entries on and erasures from roll

(2) The Council shall from time to time cause to be entered on the roll the name and address of every person licensed under this Act and shall cause to be removed therefrom,

(*a*) the name of every person licensed under this Act who has made application to the Council in the prescribed manner requesting the Council to remove his name from the roll; and

(*b*) the name of every person whose licence under this Act has been revoked or has not been renewed in accordance with this Act,

and shall cause any other necessary alterations or corrections to be made therein. R.S.O. 1970, c. 373, s. 13.

Qualifications for licence

14.—(1) Any person, on application to the Council in the prescribed manner and upon payment of the prescribed fee, is entitled to be licensed under this Act if the Council is satisfied that the applicant is of good character and,

(*a*) that he is a member of the qualifying body; or

(*b*) that he was at any time licensed under this Act or a predecessor of this Act; or

(*c*) that he is a member of the Certified General Accountants Association of Ontario,

(i) who has taken the course of instruction and passed the final examinations of that Association, and

(ii) who has had at least three years experience in public accountancy in Ontario, and

(iii) who was on the 1st day of April, 1962, a member or a student of that Association.

Exemption from conditions

(2) The Council may, in special circumstances and subject to subsections 9 (2) and (3), either unconditionally or subject to such conditions as it may think fit, exempt any person from one or more of the conditions set forth in subsection (1).

Licensees from other jurisdictions

(3) The Council may by regulation prescribe the terms and conditions upon which any licensee of a state or province other than Ontario may be exempted from one or more of the conditions set forth in subsection (1), but no such regulation shall be made, amended or repealed unless approved by the votes of at least two-thirds of the members of the Council present and voting thereon. R.S.O. 1970, c. 373, s. 14.

Period of licence

15. Every licence granted or renewed under this Act becomes effective on and shall bear the date as of which it is granted or renewed and, unless revoked, remains in force until the date prescribed by the Council. R.S.O. 1970, c. 373, s. 15.

Renewal of licence

16. Any person who is licensed under this Act and who applies to the Council in the prescribed manner and pays the prescribed fee is entitled to have his licence renewed, but nothing in this section prejudices or affects the power of the Council to revoke any licence in accordance with this Act. R.S.O. 1970, c. 373, s. 16.

Fees

17. Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations requiring the payment of fees for the grant or renewal of licences and prescribing the amounts thereof. 1979, c. 47, s. 1.

Powers as to revocation of licence

18.—(1) If a person licensed under this Act,

(*a*) has been convicted of a criminal offence;

(*b*) becomes of unsound mind;

(*c*) has been adjudged bankrupt or has made arrangement with his creditors; or

(*d*) has been found on inquiry held by the Council to be guilty of conduct disgraceful to him in his capacity as a public accountant,

the Council may, subject to the provisions of this section, revoke his licence.

Notice of intention to revoke and hearing

(2) Where the Council intends to revoke any licence in pursuance of clause (1) (*a*), (*b*) or (*c*), the Council shall first cause a written notice of its intention to be served on such person in the prescribed manner and shall, on application made by such person within one month from the date of the service of the notice, consider any representations with regard to the matter that may be made by him to the Council, either in person or by counsel.

Inquiry

(3) In any case in which it appears to the Council that a person licensed under this Act has been guilty of conduct disgraceful to him in his capacity as a public accountant, the Council may cause an inquiry to be held.

Notice of inquiry

(4) Where an inquiry is to be held under this section, the Council shall forthwith cause to be served on the person concerned a written notice of the proposed inquiry specifying the time and place at which it is to be held and the subject-matter thereof, and the person concerned is on application entitled to be heard at the inquiry either in person or by counsel. R.S.O. 1970, c. 373, s. 18.

Notice of refusal or revocation of licence

19. Where the Council refuses the application of any person for the grant or renewal of a licence, or revokes any licence granted to any person, it shall forthwith cause written notice of such refusal or revocation to be served on such person. R.S.O. 1970, c. 373, s. 19.

Effect of revocation

20.—(1) No person whose licence has been revoked shall, except as provided in this section, be granted a licence under this Act.

New licence after revocation

(2) A person whose licence has been revoked may, either on his application or on motion of the Council and after inquiry, be granted a new licence and his name may be restored to the roll at the discretion of the Council either without payment of a fee or on payment of such fee as the Council may determine. R.S.O. 1970, c. 373, s. 20.

Appeal

21. Where the Council,

(*a*) refuses to grant a licence or a new licence;

(*b*) refuses to renew a licence; or

(*c*) revokes a licence,

the person aggrieved may, within three months from the day on which notice thereof was served on him, appeal to the Divisional Court and, upon due cause shown, the court may make an order directing the Council to grant the licence, renew the licence or cancel the revocation of the licence, as the case may be, or may make such other order as may be warranted by the facts, and the Council shall forthwith comply with such order and such order is final. R.S.O. 1970, c. 373, s. 21.

Obtaining licence by false representation

22. If any person wilfully procures, or attempts to procure, the granting to him of a licence under this Act, or the renewal of such licence, by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either orally or in writing, he is guilty of an offence and on conviction is liable to a fine of not less than $100 and not more than $250. R.S.O. 1970, c. 373, s. 22.

Failure to surrender licence

23.—(1) If any person ceases to be licensed under this Act, he shall, within fourteen days thereafter, transmit his licence to the Council for cancellation, and, if he fails to do so, he is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $25, and to a further fine of not less than $3 and not more than $5 for every day on which the offence continues after conviction.

Abuse of licence

(2) Any person who,

(*a*) uses a licence issued under this Act to another person; or

(*b*) allows a licence issued to him under this Act to be used by any other person; or

(*c*) not being licensed under this Act, uses or has in his possession any document purporting to be a licence issued to him under this Act,

is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $100 and, in the case of a continuing offence, to a further fine of not less than $15 and not more than $25 for every day on which the offence continues after conviction. R.S.O. 1970, c. 373, s. 23.

Restriction on use of title or carrying on business of public accountant

24.—(1) Subject to the provisions of this section, no person who is not licensed under this Act shall, within Ontario,

(*a*) take or use the name or title of "Public Accountant";

(*b*) practise as a public accountant; or

(*c*) hold himself out as being licensed as a public accountant or use any designation or initials indicating or implying that he is licensed as a public accountant.

Permission for non-resident to practise

(2) Notwithstanding anything in this section, the Council may permit any person who is a non-resident of Ontario to practise as a public accountant within Ontario without a licence under this Act, subject to any terms and conditions that may from time to time be prescribed.

Offence

(3) Any person who contravenes any provision of this section, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not less than $100 and not more than $250 for a first offence and to a fine of not less than $200 and not more than $500 for any subsequent offence.

Defence

(4) Where a contravention of this section by any person is occasioned by the fact that his licence has been revoked, it is a good defence to any proceedings in respect of such contravention to prove that, at the time when such contravention is alleged to have been committed, notice of the revocation had not been served in accordance with this Act or the regulations hereunder, or that the time for appealing from the revocation had not expired or an appeal therefrom had been brought and had not been determined. R.S.O. 1970, c. 373, s. 24.

Prohibition against a body corporate carrying on business as public accountant

25.—(1) It is not lawful for a body corporate to practise as a public accountant and any body corporate that contravenes the provisions of this subsection, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not less than $100 and not more than $250 for a first offence and to a fine of not less than $200 and not more than $500 for any subsequent offence.

Liability of directors and officers

(2) If a body corporate is guilty of an offence under subsection (1), every director or officer of the body corporate who consented to, or connived at or was responsible for the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to be proceeded against and fined accordingly. R.S.O. 1970, c. 373, s. 25.

No costs, etc., recoverable by unlicensed person

26. No person is entitled to recover any costs incurred or charges made as a public accountant unless such person was licensed under this Act at the time when such costs were incurred or when the services were rendered in respect of which such charges were made. R.S.O. 1970, c. 373, s. 26.

Finances

27.—(1) The Council shall maintain a fund into which all moneys received by the Council shall be paid and out of which shall be paid all administrative and establishment expenses of the Council and all expenses incurred by the Council in carrying out its functions under this Act and all other liabilities properly incurred by the Council.

Management of fund

(2) The Council shall manage, administer and keep proper accounts of the fund.

Investment of moneys

(3) The Council may invest any moneys standing to the credit of the fund in any security in which trustees are authorized to invest.

Borrowing powers

(4) The Council may from time to time borrow any moneys required for the purposes of the Council and may mortgage, hypothecate, charge or pledge any or all of its property and assets to secure the amount so borrowed. R.S.O. 1970, c. 373, s. 27.

Payment of expenses, salaries and pensions

28.—(1) The Council shall pay,

(*a*) to the members of the Council such allowances for travelling and subsistence expenses incurred in the discharge of their functions; and

(*b*) to the secretary and any other officers and employees of the Council such salaries and remuner-

ation and on retirement or death, such pensions and gratuities,

as the Council may determine.

(2) The Council may make provision for the dependants of any of its employees. R.S.O. 1970, c. 373, s. 28. Dependants of employees

29. The accounts of the Council and of its officers and of any committee appointed by the Council shall be audited annually by a person licensed under this Act and appointed annually by the Council, who shall not be a member of the Council or a person who is in partnership with such a member. R.S.O. 1970, c. 373, s. 29. Audit of accounts

30.—(1) Within three months after the end of each financial year, the Council shall forward a copy of the audited accounts of the Council for that year to the qualifying body and to the Attorney General. Accounts to be furnished to qualifying bodies, etc.

(2) Any person licensed under this Act is entitled upon demand to receive a copy of the audited accounts. R.S.O. 1970, c. 373, s. 30. Copies

31.—(1) Subject to the provisions of this Act, the Council shall or may, as the case may be, prescribe by regulation anything that is by this Act required or authorized to be prescribed and may make such further provisions as may seem to the Council necessary or desirable for carrying out or facilitating any of the purposes of this Act. Regulations, etc.

(2) The Council shall on receipt of the prescribed charges supply a copy of any regulation made under this Act and of any forms prescribed by such regulation to any person applying therefor. Copies

(3) The Lieutenant Governor in Council may annul any regulation made by the Council under this Act. R.S.O. 1970, c. 373, s. 31. Annulment

32. Every regulation, licence, notice or other document made, granted or issued by the Council for any purpose whatsoever may be signed on behalf of the Council by the secretary or registrar or by such other officer of the Council as may from time to time be authorized by the Council so to do, and when so signed is *prima facie* evidence of such regulation, licence, notice or other document. R.S.O. 1970, c. 373, s. 32. Authentication of regulations and other documents

Service of documents

33.—(1) Any notice or document required to be given by or for the purposes of this Act may be sent by prepaid mail and when so sent shall be deemed to be properly addressed if addressed to the person or body for whom intended at the latest address of such person or body appearing in the roll or records of the Council.

Idem

(2) Any notice relating to,

(*a*) the refusal to grant or renew a licence;

(*b*) the revocation of a licence; or

(*c*) the removal of the name of any person from the roll,

shall be sent by registered mail. R.S.O. 1970, c. 373, s. 33.

Saving

34. Nothing in this Act precludes a registered member of the Society of Industrial and Cost Accountants of Ontario, or any other person, from practising as an industrial accountant, cost accountant or cost consultant, from designating himself as such or from issuing statements, opinions, reports or certificates in connection with such practice. R.S.O. 1970, c. 373, s. 34.

Freedom from action

35. No action shall be brought against the Council or any member or former member thereof that is based on the refusal of the Council to grant or renew a licence or that is based on the revocation by the Council of a licence. R.S.O. 1970, c. 373, s. 35.

CHAPTER 406

Public Authorities Protection Act

Interpretation

1. In this Act, "justice of the peace" includes a provincial judge, a person who is *ex officio* a justice of the peace and a person who has by law the powers of a justice of the peace, either generally or with regard to any particular matter, and any other person authorized to hear and determine any argument or to try any offence. R.S.O. 1970, c. 374, s. 1.

Actions against justices of the peace

2. No action lies or shall be instituted against a justice of the peace for any act done by him in the execution of his duty as such justice with respect to any matter within his jurisdiction as such justice unless the act was done maliciously and without reasonable and probable cause. R.S.O. 1970, c. 374, s. 2.

Where no jurisdiction

3.—(1) For any act done by a justice of the peace in a matter in which by law he does not have jurisdiction, or in which he has exceeded his jurisdiction, or for any act done under a conviction or order made or a warrant issued by him in such matter, any person injured thereby may maintain an action against the justice in the same case as he might have heretofore done, and it is not necessary to allege or prove that the act was done maliciously and without reasonable and probable cause.

Where conviction and execution by different justices

(2) Where a conviction or order has been made by a justice of the peace, and a warrant of distress or of commitment has been issued thereon by some other justice of the peace, in good faith and without collusion, no action shall be brought against the justice who issued the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the justice who made the same, but the action, if any, shall be brought against the justice who made the conviction or order.

No action until conviction or order quashed

(3) No such action as is mentioned in this section shall be brought for anything done under a conviction or order or under a warrant issued by a justice of the peace to procure the appearance of the party, which has been followed by a conviction or order in the same matter, until the conviction or order has been quashed.

No action where summons previously served and not obeyed

(4) Where such warrant has not been followed by a conviction or order, or is a warrant upon an information for an indictable offence, if a summons was issued previously to the warrant, and the summons was served upon such party, either personally or by leaving the same for him with some person at his latest or usual place or abode, and he did not appear according to the exigency of the summons, no such action shall be maintained against the justice for anything done under the warrant.

Nor when order of protection made

(5) Notwithstanding this section, no action lies when an order has been made under section 7 for the protection of the justice. R.S.O. 1970, c. 374, s. 3.

Where acting under order of the court

4. Where a justice of the peace refuses to do any act relating to the duties of his office as such justice, the person requiring the act to be done may, upon affidavit stating the facts and upon six days notice to him and also to the party to be affected by the act, apply to a judge of the Supreme Court, or to the judge of the county or district court of the county or district in which the justice resides, for an order directing the act to be done. R.S.O. 1970, c. 374, s. 4.

Where conviction, etc., confirmed on appeal

5. Where a justice of the peace has issued a warrant of distress or a warrant of commitment upon a conviction or order that either before or after the issuing of the warrant has been confirmed upon appeal, no action shall be brought against such justice by reason of any defect in the conviction or order or for anything done under the warrant. R.S.O. 1970, c. 374, s. 5.

Where protection may be claimed notwithstanding defects in proceedings

6.—(1) No defect in an information taken before or in a warrant issued by a justice of the peace prevents him from claiming the benefit and protection of this Act if the court is of opinion that he acted in good faith and that the informant or complainant intended, by the facts stated to the justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would have been one within the jurisdiction of the justice, and in such case the informant or complainant is liable as if the information had charged in proper form the commission of the offence so intended to be charged.

Non-liability of informant where offence not properly described

(2) An action shall not be brought against a person who has in good faith laid an information before a justice of the peace or by reason of the information not containing a proper description of the offence or being otherwise defective. R.S.O. 1970, c. 374, s. 6.

Conditions on quashing convictions

7.—(1) Where an order is made quashing a conviction, the court may provide that no action shall be brought against the justice of the peace who made the conviction or against the informant or any officer acting thereunder or under any warrant issued to enforce the conviction or order.

Order may be made conditional

(2) Such an order may be made conditional upon payment of the costs of the motion to quash or upon such other condition as may be considered proper. R.S.O. 1970, c. 374, s. 7.

When action may be stayed upon summary application

8. If an action is brought where by this Act it is enacted that no action shall be brought, it may be stayed upon a summary application. R.S.O. 1970, c. 374, s. 8.

Damages nominal in certain cases

9. Where the plaintiff is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as part of the damages he seeks to recover or if he proves that he was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, he is not entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of 3 cents as damages for the imprisonment, or any costs of suit, if it is proved that he was actually guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and, with respect to the imprisonment, that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay. R.S.O. 1970, c. 374, s. 9.

Actions against constable, small claims court bailiff or other officer

10.—(1) No action shall be brought against a constable, small claims court bailiff or other officer, or against any person acting by his order and in his aid, for anything done in obedience to a warrant issued by a justice of the peace or clerk of a small claims court until demand has been made or left at his usual place of abode by the person intending to bring such action or by his solicitor or agent in writing, signed by the person demanding the same, for the perusal and copy of the warrant and the same has been refused and neglected for six days after such demand.

Dismissal of action

(2) If, after such demand and compliance therewith by showing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought against such constable, bailiff or officer, or such person so acting, for any cause without making the justice or clerk who issued the warrant a defendant, on the

production and proof of the warrant at the trial of the action, judgment shall be given for the defendant notwithstanding any defect of jurisdiction in the justice or clerk.

Action brought jointly against justice or clerk and constable or bailiff

(3) If the action is brought jointly against such justice or clerk and such constable or bailiff or other officer or person so acting, on proof of such warrant, judgment shall be given for the constable or bailiff or other officer and for the person so acting notwithstanding the defect in jurisdiction.

Costs

(4) If the judgment is given against the justice or clerk, the plaintiff, in addition to any costs awarded to him, is entitled to recover such costs as he is liable to pay to the defendant for whom judgment is given. R.S.O. 1970, c. 374, s. 10.

Action for act done under public authority to be begun within six months

11.—(1) No action, prosecution or other proceeding lies or shall be instituted against any person for an act done in pursuance or execution or intended execution of any statutory or other public duty or authority, or in respect of any alleged neglect or default in the execution of any such duty or authority, unless it is commenced within six months next after the cause of action arose, or, in case of continuance of injury or damage, within six months after the ceasing thereof. R.S.O. 1970, c. 374, s. 11; 1976, c. 19, s. 1 (1).

Application of subs. (1)

(2) Subsection (1) does not apply to an action, prosecution or proceeding against,

(*a*) a sheriff for an act, neglect or default in certifying as to a writ of execution that binds land; or

R.S.O. 1980, cc. 445, 230

(*b*) a land registrar for an act, neglect or default in connection with his duties under the *Registry Act* and the *Land Titles Act*. 1976, c. 19, s. 1 (2).

Persons obeying mandamus protected

12. No action or other proceeding shall be commenced or prosecuted against any person for or by reason of anything done in obedience to a mandamus or mandatory order. R.S.O. 1970, c. 374, s. 12.

Protection of those acting under *ultra vires* statutes

13. No action shall be brought against a judge, justice of the peace or officer for anything done by him under the supposed authority of a statute of Ontario or of Canada that was beyond the legislative jurisdiction of the Legislature or of the Parliament of Canada, as the case may be, if the action would not lie against him had the statute been within the legislative jurisdiction of the Legislature or Parliament that assumed to enact it. R.S.O. 1970, c. 374, s. 13.

Applications for security for costs

14. Where an action is brought against a justice of the peace or against any person for any act done in pursuance or execution or intended execution of any public duty, statutory or otherwise, or authority, or in respect of any alleged neglect or default in the execution of any such statute, duty or authority, the defendant may at any time after the service of the writ apply for security for costs if it is shown that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment is given in favour of the defendant, and that the defendant has a good defence upon the merits, or that the grounds of action are trivial or frivolous. R.S.O. 1970, c. 374, s. 14.

Application of Act

15. This Act does not apply to a municipal corporation. R.S.O. 1970, c. 374, s. 15.

Application of Act to sheriffs and their officers

16. A sheriff or his officer acting under a writ of execution or other process shall be deemed to be a person acting in the discharge of a public duty or authority within the meaning of this Act. R.S.O. 1970, c. 374, s. 16.

CHAPTER 407

Public Commercial Vehicles Act

1. In this Act, Interpretation

(*a*) "Board" means the Ontario Highway Transport Board;

(*b*) "commercial cartage zone" means an area designated as a commercial cartage zone by the regulations;

(*c*) "commercial motor vehicle" means a commercial motor vehicle as defined in the *Highway Traffic Act*; R.S.O. 1980, c. 198

(*d*) "commercial vehicle" means,

(i) a commercial motor vehicle or a combination of a commercial motor vehicle and trailers as defined in the *Highway Traffic Act*,

(ii) a dual-purpose vehicle or a combination of a dual-purpose vehicle and a trailer as defined in the *Highway Traffic Act*,

(iii) any other motor vehicle as defined in the *Highway Traffic Act* while drawing a trailer as defined in that Act, the combination of the motor vehicle and trailer constituting the commercial vehicle;

(*e*) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;

(*f*) "dual-purpose vehicle" means a motor vehicle, other than one commonly known as a passenger car, designed by the manufacturer for the transportation of persons and goods;

(*g*) "freight forwarder" means any person not the holder of an operating licence who transports or offers

to transport or provides the transportation or offers to provide the transportation of goods on a highway for compensation and who,

(i) assembles and consolidates or provides for assembling and consolidating shipments of such goods, and performs or provides for distributing operations with respect to such consolidated shipments, and

(ii) assumes responsibility for the transportation of such property from point of receipt to point of destination, and

(iii) utilizes a commercial motor vehicle or trailer as defined in the *Highway Traffic Act* or a dual-purpose vehicle for the whole or any part of the transportation of such goods beyond an urban zone;

R.S.O. 1980, c. 198

(*h*) "goods" includes all classes of materials, wares and merchandise, live stock and milk;

(*i*) "highway" means a highway as defined in the *Highway Traffic Act*;

(*j*) "licence plate" means the licence plate issued under this Act in conjunction with a vehicle licence;

(*k*) "Minister" means the Minister of Transportation and Communications;

(*l*) "Ministry" means the Ministry of Transportation and Communications;

(*m*) "officer of the Ministry" means an officer of the Ministry designated, in writing, by the Minister to assist in the enforcement of this Act;

(*n*) "owner" means a person registered under the *Highway Traffic Act* as the owner of a motor vehicle;

(*o*) "operating licence" means a public commercial vehicle operating licence issued under this Act;

(*p*) "prescribed" means prescribed by the regulations;

(*q*) "public commercial vehicle" means a commercial motor vehicle as defined in the *Highway Traffic Act* or a dual-purpose vehicle or the combination of a commercial motor vehicle and trailer or trailers

drawn by it, operated by the holder of an operating licence;

(*r*) "regulations" means the regulations made under this Act;

(*s*) "tank truck vehicle" means a commercial motor vehicle, trailer or semi-trailer used for or capable of being used for the transportation of products in bulk and which contains or to which there is attached or upon which there has been placed either permanently or otherwise a closed tank or container having a capacity of 2.3 kilolitres or more;

(*t*) "toll" means any fee or rate charged, levied or collected for the transportation of goods or for use of a public commercial vehicle;

(*u*) "transportation" with respect to goods means the transportation, carriage, shipment, care, handling, storage or delivery thereof;

(*v*) "urban zone" means an area consisting of one urban municipality and lands adjacent thereto and within a distance of five kilometres therefrom, but does not include any part of any other urban municipality;

(*w*) "vehicle licence" means a public commercial vehicle licence issued under this Act. R.S.O. 1970, c. 375, s. 1; 1971, c. 50, s. 71 (1); 1972, c. 1, ss. 1, 100 (2); 1979, c. 56, s. 1.

Operating licence required

2.—(1) No person shall operate a commercial vehicle on a highway for the transportation for compensation of goods of any other person unless,

(*a*) pursuant to an operating licence;

(*b*) the commercial vehicle bears a licence plate issued to the operator; and

(*c*) the transportation is carried out in accordance with the terms and conditions of the operating licence and the vehicle licence and the provisions of this Act and the regulations. 1973, c. 166, s. 2, *part*; 1979, c. 56, s. 2 (1).

Exceptions

(2) Subsection (1) does not apply to prohibit the transportation of,

(*a*) goods within a commercial cartage zone or an urban zone;

(*b*) fresh fruit or fresh vegetables grown in continental United States of America;

(*c*) farm or forest produce, other than live stock or milk, that are the produce of the farm or forest from which they are being transported;

(*d*) ready mixed concrete; or

(*e*) domestic and municipal garbage, refuse and trash. 1979, c. 56, s. 2 (2).

Penalty

(3) Every person to whom subsection (1) applies who operates a commercial vehicle on a highway for the transportation for compensation of goods of another person without an operating licence or in contravention of the terms and conditions of his operating licence is guilty of an offence and on conviction is liable,

(*a*) for a first offence, to a fine of not less than $250 and not more than $5,000; and

(*b*) for each subsequent offence, to a fine of not less than $500 and not more than $5,000.

Subsequent offences

(4) Where a person who has previously been convicted of an offence mentioned in subsection (3) is convicted of the same or any other offence mentioned in subsection (3) within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause (3) (*b*). 1979, c. 56, s. 2 (3).

Advertising by unlicensed persons

(5) No person shall solicit by means of advertising, or otherwise undertake to arrange the transportation of goods by means of a vehicle operated on a highway by, for or on behalf of any person who receives compensation, either directly or indirectly, for such transportation, unless the person by, for or on behalf of whom the vehicle is operated is licensed under this Act to perform the transportation that is the object of such advertising or undertaking. R.S.O. 1970, c. 375, s. 2 (4).

Hiring of unlicensed commercial vehicle

3. Where, under the provisions of this Act, a licence is required for the transportation of goods, no person shall hire, directly or indirectly, or participate in an arrangement to hire a person to transport such goods by means of a com-

mercial vehicle knowing that the person hired, by, for or on behalf of whom the commercial vehicle is operated, is not the holder of the required licence. 1979, c. 56, s. 3.

Transportation of goods for compensation

4.—(1) Subject to subsection (2), where a commercial vehicle is used for the transportation on a highway of goods that,

(*a*) are owned by a person other than the owner or lessee of the vehicle; and

(*b*) are being transported pursuant to any arrangement or agreement between the owner or lessee of the vehicle and such other person under which the owner or lessee directly or indirectly receives compensation or consideration of any kind for the use of the vehicle,

the goods shall be deemed for the purposes of this Act to be transported in the vehicle by the owner or lessee of the vehicle, as the case may be, for compensation unless such arrangement or agreement constitutes a valid lease of the vehicle to such other person by the owner or lessee of the vehicle.

Lease of vehicle

(2) An arrangement or agreement shall be deemed not to be a valid lease of a vehicle for the purposes of this Act,

(*a*) unless it is in writing and sets out fully and accurately all the terms under which the vehicle is leased;

(*b*) unless the lessee acquires or exercises exclusive possession and control over the vehicle under the arrangement or agreement;

(*c*) where the lessor or his agent or servant engages or pays directly or indirectly the driver of the vehicle;

(*d*) where the lessor or his agent or servant in any way exercises any control over the driver in the course of his employment as a driver of the vehicle;

(*e*) where the lessor of the vehicle or his agent or servant in any manner whatsoever assumes any responsibility for any goods transported by the vehicle; or

(*f*) where the vehicle is the subject of more than one arrangement or agreement for its use during the same period of time.

Where vehicle permit transferred

R.S.O. 1980, c. 198

(3) An arrangement or agreement referred to in subsection (1) includes an arrangement or agreement that provides or includes a provision for the transfer of the permit issued under the *Highway Traffic Act* for a commercial vehicle to a person owning goods that are transported in the vehicle and for the subsequent retransfer of the permit to the former registered owner.

Production of commercial vehicle lease

(4) Every driver of a commercial vehicle that is under lease to the owner, consignor or consignee of the goods transported shall carry at all times while transporting the goods on a highway a true copy of the lease and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry. 1973, c. 166, s. 3.

Agents

5.—(1) No person other than a duly authorized agent of a holder of an operating licence shall carry on the business of an agent for the transportation of goods upon the highways. R.S.O. 1970, c. 375, s. 4 (1); 1979, c. 56, s. 4 (1).

Agency authority

(2) A duly authorized agent of a holder of an operating licence shall be appointed in writing and such appointment shall be signed by the owner and shall at all times be kept posted up and displayed in a conspicuous place on the premises at which the agent conducts the agency business. R.S.O. 1970, c. 375, s. 4 (2); 1979, c. 56, s. 4 (2).

Operating licence, issue

6.—(1) The Minister may issue an operating licence in accordance with a certificate of public necessity and convenience issued by the Board under section 7. 1975 (2nd Sess.), c. 7, s. 1.

Rights under licence

(2) An operating licence authorizes the licensee to conduct upon a highway by means of a public commercial vehicle the business of transportation of goods in accordance with this Act and the regulations and the terms and conditions of the licence.

Discontinuance of transportation service

(3) The holder of an operating licence shall not discontinue any transportation service authorized under his licence until after he has given the Minister ten days written notice of his intention to do so. 1971, c. 50, s. 71 (3), *part*.

Special authority

(4) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set forth in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc., continues to apply

(5) The provisions of this Act, except sections 7 and 24, and the regulations, and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation by Minister

(6) The Minister may delegate to a member or members of the Board his powers under subsection (4).

Condition deleted

(7) Every operating licence issued by the Minister under a predecessor of this section, every certificate issued by the Board under section 6 of *The Public Commercial Vehicles Act* being chapter 375 of the Revised Statutes of Ontario, 1970 and every certificate issued before the 17th day of October, 1955, by the Ontario Municipal Board under this Act that contains a condition that refers to the City of North Bay and prohibits the transportation of goods to or from any points north of North Bay is amended by the deletion of the condition. 1979, c. 56, s. 5.

Approval of Board

7.—(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application as required by the *Ontario Highway Transport Board Act,* approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

R.S.O. 1980, c. 338

Certificate

(2) Subject to subsections (3), (5) and (8), the Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

(*a*) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence;

(*b*) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate; and

(*c*) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event. 1979, c. 56, s. 6 (1), *part*.

Issue of certificate of approval referring to region of operation and number of vehicles

(3) The Board, in a certificate issued by it under this section pertaining to the transportation, other than by a tank truck vehicle, of,

(*a*) sand, gravel, earth, crushed or uncut rock and stone, asphalt mixes, slag and rubble; and

(*b*) salt, calcium chloride, a mixture of sand and salt, and asphalt mixes directly to highway construction or maintenance sites or to stock piles for further use on highway construction or maintenance sites,

having regard to the requirements of public necessity and convenience,

(*c*) shall approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,

(i) a region or regions as prescribed by the regulations hereunder and not otherwise geographically, and

(ii) the maximum number of vehicles which may be operated; and

(*d*) shall not limit the rights conferred by the licence to the operation of public commercial vehicles for the transportation of materials of specific consignors or consignees. 1975 (2nd Sess.), c. 7, s. 2 (3), *part*.

Meaning of public necessity and convenience for purposes of subs. (1)

(4) Where the application referred to in subsection (1) is for an operating licence for only the transportation of goods through the Province of Ontario, public necessity and convenience shall be deemed to have been established for the purposes of that subsection upon the applicant filing with the Board evidence satisfactory to the Board that the applicant holds appropriate operating licences issued by the provinces where the transportation by the applicant will originate and terminate. 1979, c. 56, s. 6 (2).

Lumber products

(5) The Board, in a certificate issued by it under this section pertaining to the transportation of logs, timber, rough or dressed lumber, laminated lumber, laminated wood blocks, wooden ties and poles, plywood, particle board, waferboard, fibreboard, veneer, bark, woodchips, shavings, sawdust and wood flour, having regard to the requirements of public necessity and convenience,

(*a*) shall approve the conferring by the licence of rights with respect to the operation of public commercial vehicles in terms of,

(i) transportation commencing within a region or regions as prescribed by the regulations and not otherwise geographically, and

(ii) the maximum number of vehicles which may be operated; and

(*b*) shall not limit the rights conferred by the licence to the operation of public commercial vehicles for the transportation of materials of specific consignors or consignees. 1979, c. 56, s. 6 (3).

Applicants who operated between September 30, 1974 and October 1, 1976

(6) An application for a probationary operating licence or licences may be made to the Board by a person who has not been the holder of an operating licence at any time between the 30th day of September, 1974 and the 1st day of October, 1976, other than a Class F, FS or R operating licence as prescribed in the regulations. 1979, c. 56, s. 6 (4), *part*; 1979, c. 97, s. 1 (1).

Evidence in support of application

(7) In support of an application made under subsection (6), the person making the application shall submit to the Board evidence showing,

(*a*) that, from the 1st day of October, 1974 to the 30th day of September, 1976, the applicant operated on a continuing basis one or more commercial vehicles transporting goods for compensation where the operation was not restricted to urban zones;

(*b*) the number of commercial vehicles operated by the applicant;

(*c*) a description of goods carried and names of the consignors of the goods;

(*d*) the points of origin and destination of the goods described under clause (*c*);

(*e*) that persons named in clause (*c*) support the application;

(*f*) that the applicant is financially capable of continuing to provide such transportation services in accordance with this Act and the regulations and of meeting his financial responsibilities to the persons mentioned in clause (*e*); and

(*g*) that the applicant was on the date of the application carrying on the business of transporting for com-

pensation goods of another person where the operation was not restricted to urban zones.

Issuance of certificate

(8) The Board, upon hearing an application made under subsection (6) and being satisfied with regard only to the evidence submitted under subsection (7), shall issue a certificate or certificates consistent with such evidence approving the issue of a probationary licence or licences, which certificate or certificates shall state the maximum number of commercial vehicles that may be operated.

Issuance of licence

(9) Notwithstanding subsection (1) and subject to subsection (12), where the Board has issued a certificate or certificates under subsection (8), the Minister shall issue a probationary licence or licences in accordance with the certificate or certificates containing such terms and conditions as set out in the certificate or certificates. 1979, c. 56, s. 6 (4), *part*.

Time limit for application under subs. (6)

(10) An application under subsection (6) shall be made not later than 180 days after the 31st day of August, 1979. 1979, c. 56, s. 6 (4), *part*; 1979, c. 97, s. 1 (2).

Applicant to file tariff

(11) An applicant under subsection (6) shall file with his application a tariff of tolls showing all the rates and charges for the transportation of goods in respect of which the transportation is proposed to be provided or offered by the applicant.

Requirements prior to issue of licence

(12) Before a licence is issued by the Minister pursuant to a certificate issued by the Board under subsection (8), the applicant shall file with the Ministry, for each motor vehicle that he proposes to operate under the licence, a safety standards certificate issued under the *Highway Traffic Act* not more than thirty days before the date of filing.

R.S.O. 1980, c. 198

Validity of probationary operating licence

(13) A probationary operating licence issued under subsection (9) expires,

(*a*) upon the Board revoking its certificate under subsection (14); or

(*b*) where the Board issues a new certificate under subsection (14),

(i) upon the Minister issuing an operating licence under subsection (1) pursuant to the certificate, or

(ii) upon the expiration of three months after the issuance of the new certificate,

whichever first occurs.

Review by Board

(14) The Board shall, not less than one year after the date of issue of a probationary operating licence issued under subsection (9) and as soon after the expiration of the one year as is convenient to the Board, review the certificate with respect to the licence and shall revoke the certificate or issue a new certificate approving the issue of an operating licence. 1979, c. 56, s. 6 (4), *part*; 1979, c. 97, s. 1 (3).

Where certificate revoked or amended

8. Where a certificate issued by the Board under section 7 is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address. 1979, c. 56, s. 7.

Transfer of licence

9.—(1) No operating licence shall be transferred without the approval of the Minister, in writing, obtained on application on the form provided therefor by the Ministry and payment of the prescribed fee. 1971, c. 50, s. 71 (5), *part*; 1979, c. 56, s. 8 (1).

Probationary licence not transferable

(2) No probationary operating licence issued pursuant to an application under subsection 7 (6) is transferable. 1979, c. 56, s. 8 (2).

Reference to Board

(3) The Minister shall refer an application for approval of the transfer of an operating licence to the Board, and the Board shall hold a hearing as required by the *Ontario Highway Transport Board Act* and shall report to the Minister whether or not the public necessity and convenience served by the transportation service carried on under the licence will be prejudiced by the transfer of the licence. 1971, c. 50, s. 71 (5), *part*; 1979, c. 56, s. 8 (3).

R.S.O. 1980, c. 338

Parties

(4) The Minister, the proposed transferor and transferee and such other persons as the Board may specify are parties to the proceedings under this section.

Decision of Minister

(5) The Minister shall consider a report made by the Board to him under this section and may thereafter approve or refuse to approve the transfer and the Minister shall give reasons for his decision to the other parties to the proceedings.

Issue or transfer of shares of corporation

(6) The Minister may require the directors of a corporation that is the holder of an operating licence to report to the Board any issue or transfer of shares of its capital stock and where the Board finds, after a hearing, that the number of shares so issued or transferred affects the *de facto* control of the operations of the corporation such issue or transfer

shall be deemed to constitute a transfer of all operating licences held by such corporation and, unless the transfer is approved, such operating licences shall terminate. 1971, c. 50, s. 71 (5), *part*.

Review of terms of licence

10. The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed having regard to the requirements of public necessity and convenience and the Board shall, after a hearing of the reference as required by the *Ontario Highway Transport Board Act*, report thereon to the Minister, and the Minister may confirm, amend or cancel the terms and conditions of the licence and shall give reasons for his decision to the licensee. 1971, c. 50, s. 71 (5), *part*.

R.S.O. 1980, c. 338

Expiry of licence

11.—(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year or on the expiry of all vehicle licences issued pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired one or more vehicle licences for the period immediately following such date or such expiry, as the case may be. 1979, c. 56, s. 9 (1).

Operating licence renewed on acquirement of vehicle licences

(2) Where the holder of an operating licence has acquired vehicle licences in accordance with subsection (1), his operating licence is deemed to be renewed for the period for which the vehicle licences are issued. 1971, c. 50, s. 71 (5), *part*.

Where subss. (1) and (2) do not apply

(3) Subsections (1) and (2) do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. 1979, c. 56, s. 9 (2).

Suspension or cancellation of operating licence

12. Subject to section 23, the Minister may suspend or cancel an operating licence,

(*a*) where the licensee fails to begin to provide transportation services in accordance with the licence within thirty days after the issue of the licence, or within such further period as is specified in the licence;

(*b*) where the licensee fails for a continuous period of thirty days to provide transportation services in accordance with the licence;

(*c*) where the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors affords reasonable grounds for belief that the transportation service will not be

operated in accordance with the law and with honesty and integrity;

(*d*) where the licensee is financially incapable of providing or continuing to provide transportation services in accordance with this Act and the regulations or the terms and conditions of the licence or of meeting his financial responsiblities to persons using such services;

(*e*) where the licensee or any person under his control and direction contravenes this Act or the *Highway Traffic Act* or the regulations hereunder or thereunder or the terms and conditions of the licence and such contravention affords reasonable grounds for believing that the transportation services required by the licence will not be carried on in accordance with the requirements of such Acts or regulations or such terms and conditions; or R.S.O. 1980, c. 198

(*f*) where the licence was issued under subsection 7 (1), as a result of the application of subsection 7 (4), and the licensee ceases to hold any appropriate operating licence referred to in subsection 7 (4). 1971, c. 50, s. 71, (5), *part*; 1979, c. 56, s. 10.

Designation of commercial cartage zones

13.—(1) A commercial cartage zone may be designated by the Minister from time to time in accordance with the recommendations of the Board.

Referral to Board

(2) Where the Minister proposes to designate a commercial cartage zone or to vary the boundaries of a commercial cartage zone, he shall refer the proposal to the Board and the Board shall hold a public hearing and report thereon to the Minister with its recommendations.

Idem

(3) The Minister may, following receipt of the report and recommendations of the Board under subsection (2), require the Board to hold a new public hearing of the whole or any part of the proposal and to report thereon to the Minister with its recommendations.

Limitation

(4) A commercial cartage zone shall not exceed one regional municipality, county or district.

Matters for Board to consider

(5) In determining whether to recommend the designation of a commercial cartage zone, the Board shall consider whether public necessity and convenience will be served thereby by taking into account the impact on the users of for hire

transportation services within the area under consideration and on the providers of such services and, in considering the impact on the providers of such services, the Board will take into account the impact on those operating exclusively within areas of the proposed zone to which this Act does not apply and those holding operating licences under this Act who would be affected thereby. 1979, c. 56, s. 11.

Issue of vehicle licence

14.—(1) Subject to section 17, the holder of an operating licence is entitled, upon application to the Minister on the form provided therefor by the Ministry and payment of the prescribed fee, to be issued vehicle licences by the Minister. 1979, c. 56, s. 12 (1).

Limit on vehicle licences

(2) Notwithstanding subsection (1), the holder of an operating licence is not entitled to be issued or to hold more vehicle licences than he has commercial vehicles registered in his name or leased in accordance with this Act and the regulations. 1979, c. 56, s. 12 (2).

Vehicle licence

15.—(1) A vehicle licence authorizes the holder to operate a vehicle on which a licence plate is displayed as a public commercial vehicle providing the transportation designated in his operating licence.

Expiry of vehicle licence

(2) A vehicle licence expires at the end of the last day of the period for which the licence was issued.

Display of licence plate

(3) Subject to subsection (4), a licence plate shall not be displayed on a commercial motor vehicle unless the vehicle licence was issued for that vehicle.

Where subs. (3) does not apply

(4) Subsection (3) does not apply if,

(*a*) the holder of the vehicle licence is within a class of licensees prescribed for the purposes of this subsection;

(*b*) the commercial motor vehicle is within a class of motor vehicles prescribed for the purposes of this subsection; or

(*c*) the operating licence under the authority of which the vehicle licence was issued is within a class prescribed for the purposes of this subsection.

Regulations

(5) For the purposes of subsection (4), the Lieutenant Governor in Council may make regulations prescribing,

(*a*) classes of holders of operating licences;

(*b*) classes of commercial motor vehicles;

(*c*) classes of operating licences. 1979, c. 56, s. 13.

Tonnage

16.—(1) The Minister may in a vehicle licence fix the tonnage that may be carried in the vehicle under the licence and no vehicle shall at any time carry more tonnage than is fixed by the licence. 1971, c. 50, s. 71 (6), *part*.

Licence plate

(2) No person shall operate a public commercial vehicle on a highway unless there is attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister to the operator of that vehicle showing the number of the vehicle licence issued for the current year.

Holder of operating licence deemed to be operator

(3) Where a licence plate is exposed on a commercial vehicle, the holder of the operating licence under the authority of which that licence plate and corresponding vehicle licence was issued shall be deemed to be the operator of that vehicle for the purposes of this Act unless the licence plate was exposed thereon without his consent, the burden of proof of which shall be on the licensee.

Ownership of vehicle

(4) No holder of an operating licence shall operate a public commercial vehicle unless he is the registered owner of the vehicle under the *Highway Traffic Act* or he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations. 1979, c. 56, s. 14.

R.S.O. 1980, c. 198

Refusal to issue or cancellation of vehicle licence

17. Subject to section 23, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, the holder of an operating licence or ceases to comply with subsection 14 (2). 1979, c. 56, s. 15.

Freight forwarder's licence required

18.—(1) No person shall carry on business as a freight forwarder unless he is the holder of a freight forwarder's licence under this Act.

Restrictions on transportation of goods beyond urban zone

(2) No holder of a freight forwarder's licence shall transport goods upon a highway beyond an urban zone except in a vehicle operated by the holder of an operating licence issued pursuant to this Act, the terms of which operating licence authorize the holder to perform the transportation.

Issue to holder of operating licence prohibited

(3) No freight forwarder's licence shall be issued to the holder of an operating licence. 1971, c. 50, s. 71 (6), *part*.

Issuance of freight forwarder's licence

19.—(1) The Minister, upon receipt of,

(*a*) a certificate of public necessity and convenience issued by the Board pursuant to section 20; and

(*b*) payment of the prescribed fee,

shall issue a freight forwarder's licence in accordance with the certificate issued by the Board.

Renewal

(2) Subject to subsection (3), a freight forwarder's licence may be renewed by the Minister upon application by the holder of the licence.

Transitional

(3) A freight forwarder's licence that is in force immediately before the 31st day of January, 1974 shall not be renewed until the Board upon the application of the licensee has, after a hearing of the application, approved the renewal of the licence on the ground that public necessity and convenience warrant the renewal of the licence and will be served thereby and has issued a certificate to that effect to the Minister, and the Board, having regard to the requirements of public necessity and convenience, may prescribe in the certificate terms and conditions to govern the freight forwarding business of the applicant. 1973, c. 166, s. 6.

Approval of Board

20. The Minister shall not issue a freight forwarder's licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry, has, after a hearing of the application in accordance with the *Ontario Highway Transport Board Act,* approved the issuance of the licence to him on the ground that public necessity and convenience warrant the issuance of the licence and will be served thereby and has issued a certificate to that effect to the Minister, and the Board, having regard to the requirements of public necessity and convenience, may prescribe in the certificate terms and conditions to govern the freight forwarding business. 1973, c. 166, s. 7; 1979, c. 56, s. 16.

R.S.O. 1980, c. 338

Expiry of licence

21. A freight forwarder's licence expires on the 31st day of December in the year in which it was issued. 1971, c. 50, s. 71 (6), *part.*

Suspension and cancellation of licence

22. Subject to section 23, the Minister may suspend or cancel a freight forwarder's licence,

(*a*) where the licensee fails to maintain in force a policy of insurance or bond that meets the requirements of this Act or the regulations; or

(*b*) where the licensee or any person under his control and direction contravenes this Act or the regulations or the terms and conditions of the licence

and such contravention or failure affords reasonable grounds for believing that the business of a freight forwarder will not be carried on in accordance with the requirements of this Act and the regulations and the terms and conditions of the licence. 1971, c. 50, s. 71 (6), *part*; 1973, c. 166, s. 8.

Notice of proposal to cancel, etc., hearing

23.—(1) Where the Minister proposes,

(*a*) to suspend or cancel an operating licence under section 12;

(*b*) to refuse to issue or to cancel a vehicle licence under section 17; or

(*c*) to suspend or cancel a freight forwarder's licence under section 22,

he shall cause notice of his proposal together with written reasons therefor to be served on the applicant or licensee informing him that he has a right to a hearing by the Board if he mails or delivers, within fifteen days after service on him of the notice from the Minister, notice in writing requiring a hearing to the Minister and the Board, and the applicant or licensee may so require such a hearing. 1971, c. 50, s. 71 (6), *part*; 1973, c. 166, s. 9.

Where hearing required or not required

(2) Where an applicant or licensee,

(*a*) does not give notice in accordance with subsection (1) requiring a hearing by the Board, the Minister may forthwith refuse to issue or may suspend or cancel the licence; or

(*b*) gives notice in accordance with subsection (1) requiring a hearing by the Board, the Minister shall refer the matter to the Board for a hearing.

Service of notice

(3) The Minister may cause a notice under subsection (1) to be served personally or by registered mail addressed to the applicant or licensee at his address last known to the Minister and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for giving notice by applicant

(4) The Board, on application of an applicant or licensee, may extend the time for giving notice requiring a hearing

under subsection (1), either before or after expiration of the time fixed therein, where the Board is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as the Board considers proper consequent upon the extension.

Parties to hearing

(5) The Minister, the applicant or licensee and such other persons as the Board may specify are parties to a hearing under this section.

Notice of hearing

(6) Notice of a hearing under this section shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of his licence.

Examination of documentary evidence

(7) The Minister shall afford to the applicant or licensee, or his representative, an opportunity to examine before the hearing any written or documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing.

Report to Minister

(8) The Board shall, after a hearing under this section, make a report to the Minister, which shall set out its findings of fact and conclusions of law and its recommendations as to the issue, suspension or cancellation of the licence to which it relates.

Decision of Minister

(9) After considering a report of the Board under this section, the Minister may carry out the proposal or refrain from carrying out the proposal to which it relates and shall give reasons for his decision to the applicant or licensee. 1971, c. 50, s. 71 (6), *part*.

Tariff of tolls to be filed with Board

24.—(1) Except as provided in the regulations, each holder of an operating licence or of a freight forwarder's licence shall, on payment of the prescribed fee, file with the Board a tariff of tolls showing all the rates or charges for the transportation of goods to and from points in respect of which the transportation is provided or offered by the licensee or by arrangement with any other licensee or any other carrier.

Charging of tolls

(2) No holder of an operating licence or freight forwarder's licence shall charge a toll that is not contained in, and in accordance with, the tariff filed by him under subsection (1). 1971, c. 50, s. 71 (6), *part*.

Form and publication of tariff

25. A tariff of tolls shall be filed in a form satisfactory to the Board and published and maintained available to the public. 1979, c. 56, s. 17.

Amendment to tariff

26.—(1) A licensee who has filed a tariff of tolls with the Board may file with the Board an amendment to the tariff but, subject to subsection (2), such amendment shall not become effective until the expiry of thirty days from the date the amendment was filed.

Effective date

(2) The Board, upon the application of a licensee who has filed an amendment to his tariff of tolls under this section, may fix the effective date of the amendment on a specified date prior to the expiry of thirty days from the date the amendment was filed. 1971, c. 50, s. 71 (6), *part*.

Bill of lading, issue of

27.—(1) Except as provided in the regulations, every holder of an operating licence or of a freight forwarder's licence shall issue a bill of lading to the person delivering or releasing goods to the licensee for transportation for compensation. 1971, c. 50, s. 71 (6), *part*.

Contents

(2) A bill of lading shall contain such information as may be prescribed by regulation together with an acknowledgement of receipt by the carrier or the freight forwarder of the goods therein described indicating whether the goods were received in apparent good order and condition and an undertaking to carry the goods for delivery to the consignee or the person entitled to receive the goods and shall be signed in full by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor as accepting the terms and conditions contained, or deemed to be contained, therein.

Signed copy to be retained

(3) A signed copy of the bill of lading shall be retained by the consignor and by the carrier.

Copy of bill of lading to be carried by driver

(4) Every driver operating a public commercial vehicle shall carry on each trip a copy of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Idem

(5) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's waybill carried in lieu of bill of lading

(6) Notwithstanding subsections (4) and (5), a carrier's waybill, containing such information as may be prescribed by

regulation, may be carried by any driver operating a public commercial vehicle or transporting goods on behalf of a freight forwarder and may be produced in lieu of a bill of lading when such is required for inspection by a member of the Ontario Provincial Police Force or an officer of the Ministry.

Carrier's responsibility

(7) Where any shipment of goods is carried on more than one vehicle, the carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by a waybill mentioned in subsection (6). 1979, c. 56, s. 19.

Insurance

28. Every person licensed under this Act shall provide or effect and carry such insurance or bond as is prescribed by the regulations. R.S.O. 1970, c. 375, s. 13.

Certificate of insurance

29.—(1) Every insurer who has issued a policy of insurance in accordance with section 28 shall issue a certificate thereof which shall be filed with the Minister.

Effect of certificate

(2) Such certificate shall be deemed to be a conclusive admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate.

Notice of cancellation or expiry of insurance

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy for which a certificate has been issued, at least thirty days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry the policy remains in full force and effect. R.S.O. 1970, c. 375, s. 14.

Cancellation of expiry of bond

30. A bond issued in accordance with section 28 shall not be cancelled or expire except after thirty days written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. R.S.O. 1970, c. 375, s. 15.

Vehicle licence, etc., to be carried by driver

31. Every driver of a public commercial vehicle on a highway shall carry or keep in a readily accessible place in the vehicle, the vehicle licence corresponding to the licence plate exposed on the vehicle together with a copy of the conditions set out in the operating licence under which the vehicle is being operated, which documents shall be produced upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry. 1979, c. 56, s. 20.

Stopping of vehicle for examination

32.—(1) A member of the Ontario Provincial Police Force or an officer of the Ministry may, for the purpose of an examination in accordance with subsection (2), direct, by

signals or otherwise, the driver of any commercial vehicle that is being driven on a highway to stop, and the driver upon being so directed shall stop the vehicle.

Examination of vehicle, etc.

(2) A member of the Ontario Provincial Police Force or an officer of the Ministry may at any time examine any commercial vehicle, its contents and equipment for the purpose of ascertaining whether this Act and the regulations are being complied with in the operation of the vehicle, and the driver or other person in control of the vehicle shall assist in the examination of it, its contents and equipment. 1973, c. 166, s. 10, *part*.

Production of documents

(3) Where a commercial vehicle examined under this section contains goods that are being transported, the person conducting the examination may, in addition to any documents required to be produced under the *Highway Traffic Act*, R.S.O. 1980, c. 198 require the driver or other person in charge of the vehicle to produce all documents in his possession or in the vehicle relating to the operation of the vehicle and the transportation and ownership of the goods, including, if any,

(*a*) the vehicle licence;

(*b*) a copy of the conditions of the operating licence under which the vehicle is operated;

(*c*) a copy of any lease under which it is being operated; and

(*d*) copies of any bills of lading or waybills,

and to furnish any information that he has relating to the details of the trip on which the goods are being transported and the ownership of the goods. 1973, c. 166, s. 10, *part*; 1979, c. 56, s. 21.

Examination of records, etc., of holder of operating licence, etc.

33.—(1) An officer of the Ministry may at any reasonable time examine all books, records and documents of the holder of an operating licence relating to the business of operating public commercial vehicles or of the holder of a freight forwarder's licence relating to his business as a freight forwarder for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder. 1971, c. 50, s. 71 (7), *part*; 1972, c. 1, s. 1; 1979, c. 56, s. 22.

Appointment of investigators

(2) In addition to any other action taken under this Act, where the Minister believes on reasonable and probable grounds that any person has contravened any of the provisions of this Act or the regulations, the Minister may appoint one or more persons to make an investigation to ascertain whether such a contravention has occurred and the person appointed shall report the result of his investigation to the Minister.

Examination of records, etc.

(3) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into negotiations and transactions made by or on behalf of or in relation to such person relating to the transportation of goods or the use of commercial vehicles or that are otherwise relevant to the subject-matter of the investigation,

and for the purpose of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980, c. 411

Idem

(4) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Issuance of order

(5) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section,

(*a*) that the investigation has been ordered and that such person has been appointed to make it; and

(*b*) that there are reasonable grounds for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation,

the justice of the peace may, whether or not an inspection has been made or attempted under clause (3) (*a*), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

Removal of documents

(6) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (3) (*a*) or under subsection (5) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents shall be promptly thereafter returned to the person whose affairs are being investigated.

Copies

(7) Any copy made as provided in subsection (6) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of examiners

(8) The Minister may appoint any expert to assist in examining books, papers, documents or things examined under clause (3) (*a*) or under subsection (5). 1973, c. 166, s. 11.

Matters confidential

34. Each person employed in the administration of this Act, including any person making an examination under section 33, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment or on an examination under section 33 and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations; or

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates. 1971, c. 50, s. 71 (7), *part*.

Penalty

35. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided

for herein, is liable to a fine of not less than $150 and not more than $1,500. 1979, c. 56, s. 23.

Consent to prosecutions

36. No prosecution shall be instituted under this Act without the consent of a member of the Ontario Provincial Police Force or of an officer of the Ministry designated by the Minister to assist in the enforcement of this Act. R.S.O. 1970, c. 375, s. 17; 1972, c. 1, s. 1.

Regulations

37.—(1) The Lieutenant Governor in Council may make regulations,

1. prescribing classes of licences and the forms of licences;

2. prescribing fees and the basis for computing fees, and respecting payment thereof;

3. exempting any person or the holder of any class or type of operating licence from the payment of fees respecting the transfer of an operating licence;

4. prescribing terms and conditions to which licences shall be subject;

5. requiring any person to whom an operating licence is issued to produce a safety standards certificate respecting any or all vehicles operated under such licence, and prescribing the form and content of a safety standards certificate;

6. fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons licensed under this Act;

7. prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;

8. governing the filing of bonds and certificates of insurance;

9. respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;

10. prescribing the form and contents of a waybill;

11. prescribing, regulating and limiting the hours of labour of drivers of public commercial vehicles;

12. prescribing the qualifications of drivers of public commercial vehicles;

13. prescribing equipment to be carried by public commercial vehicles and the condition and location in which the equipment shall be kept;

14. prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed by persons licensed under this Act;

15. prescribing the method of handling cash on delivery shipments and the collection and remittance of cash on delivery funds;

16. prescribing the form and contents of, and information to be contained in, bills of lading issued by holders of licences issued under this Act and exempting any class of holder from any or all of the prescribed requirements;

17. prescribing the information to be marked on articles covered by a bill of lading issued by holders of licences issued under this Act and exempting any class of holder from any prescribed provision;

18. prescribing conditions deemed to be a part of every contract for the transportation of goods for compensation to which this Act applies;

19. providing for the delegation to an officer of the Ministry of such of the powers and duties of the Minister as may be considered necessary;

20. providing for the temporary exemption from any of the provisions of this Act or the regulations of such public commercial vehicles carrying goods into, out of, or through Ontario or such persons operating such vehicles as he may designate upon such terms, limitations and conditions as he may prescribe;

21. prescribing regions within the boundaries of which goods may be transported by public commercial vehicles pursuant to an operating licence;

22. governing the issue and renewal of operating licences and classes of operating licences;

23. prescribing the qualifications of applicants for and holders of operating licences or any class or classes of operating licences;

24. exempting holders of any class or classes of operating licences from any of the provisions of section 24 or 27;

25. prescribing terms which shall be incorporated into all leases referred to in subsection 16 (4);

26. prescribing procedures for the filing and obtaining of approval of leases for the purposes of subsection 16 (4);

27. prescribing regions in which the transportation of goods may be commenced by public commercial vehicles pursuant to an operating licence;

28. respecting any matter or thing that is required or permitted to be regulated or prescribed under this Act. R.S.O. 1970, c. 375, s. 18; 1971, c. 50, s. 71 (9-11); 1972, c. 1, s. 1; 1973, c. 166, s. 13; 1975 (2nd Sess.), c. 7, s. 3; 1979, c. 56, s. 24; 1979, c. 97, s. 2 (1, 2).

Regulations may be limited in scope

(2) Any regulation made under subsection (1) may be limited to any class of licence holder or carrier or to any class of licence holder or carrier while transporting a specified commodity. 1979, c. 97, s. 2 (3).

Policy statements

38.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted.

Publication

(2) An order made under subsection (1) shall be published in *The Ontario Gazette*. 1979, c. 56, s. 25, *part*.

Investigation directed by Minister

39.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

Hearings by Board

(2) For the purposes of subsection (1), the Board may hold such hearings as it considers necessary. 1979, c. 56, s. 25, *part*.

CHAPTER 408

Public Halls Act

1. In this Act, Interpretation

(*a*) "owner" means a person who has in respect of premises an estate for life or a greater estate, legal or equitable, or a leasehold estate;

(*b*) "public hall" means a building, including a portable building or tent with a seating capacity for over 100 persons that is offered for use or used as a place of public assembly, but does not include a theatre within the meaning of the *Theatres Act* or a building, except a tent, used solely for religious purposes. R.S.O. 1970, c. 376, s. 1. R.S.O. 1980, c. 498

2.—(1) No public hall shall be offered for use or used as a place of public assembly unless the owner thereof holds a licence therefor from the city, town, village or township in which it is located, or where it is located in a city having a population of not less than 100,000, from the board of commissioners of police of the city. R.S.O. 1970, c. 376, s. 2. Licence required

(2) No application for a licence for a public hall for use as a place of public assembly shall be refused until after the applicant has been afforded a hearing by the licence issuing authority. 1971, c. 50, s. 72. Hearing

3. Any owner who contravenes subsection 2 (1) is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $500 and in default of payment of the fine imposed or in addition to such fine, to imprisonment for a term of not more than six months. R.S.O. 1970, c. 376, s. 3. Offence

CHAPTER 409

Public Health Act

Interpretation

1. In this Act,

(*a*) "communicable disease" means smallpox, diphtheria, typhoid fever, rabies, tuberculosis and any other disease designated by the regulations as a communicable disease;

(*b*) "Deputy Minister" means the Deputy Minister of Health;

(*c*) "food and dairy inspector" means a food and dairy inspector appointed under this Act;

(*d*) "full-time public health services" means the public health services provided by medical officers of health, public health nurses or public health inspectors who are employed full-time by the Ministry, a municipality or the board of health of a health unit, and includes such other full-time public health services as the regulations prescribe;

(*e*) "health unit" means a health unit established under this Act;

(*f*) "house" or "household" includes a dwelling house, lodging house and hotel, and also includes a students' residence, fraternity house or other building in which any person in attendance as a student, pupil or teacher or employed in any capacity in or about a university, college, school or other institution of learning resides or is lodged;

(*g*) "householder" includes the proprietor, master, mistress, manager, housekeeper, janitor and caretaker of a house;

(*h*) "local board" means the local board of health for a municipality or of a health unit;

(*i*) "medical and dental inspection" means medical and dental inspection and dental treatment;

(*j*) "medical officer of health" means the medical officer of health of a municipality or of a health unit appointed under this Act or, in unorganized territory, a medical officer of health appointed by the Ministry for a specified area;

(*k*) "member of a household" means a person residing, boarding or lodging in a house;

(*l*) "milk" includes whole milk and such products of milk as are supplied, processed, distributed or sold in any form other than butter or cheese;

(*m*) "Minister" means the Minister of Health;

(*n*) "Ministry" means the Ministry of Health;

(*o*) "municipality" does not include a county;

(*p*) "occupier" means the person in occupation or having the charge, management or control of any premises, whether on his own account or as an agent;

(*q*) "owner" means the person for the time being receiving the rent of the land or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person, or who would so receive the rent if such land or premises were let;

(*r*) "pasteurization" means subjecting every particle of milk in such manner as is required by the regulations to a temperature and for a time prescribed by the regulations;

(*s*) "premises" means any land or any building, public or private, sailing, steam or other vessel, any vehicle, steam, electric or street railway car for the conveyancy of passengers or freight, any tent, van or other structure of any kind, any mine, or any stream, lake, drain, ditch or place, open, covered or enclosed, public or private, natural or artificial, and whether maintained under statutory authority or not;

(*t*) "regulations" means the regulations made under this Act;

(*u*) "street" includes any highway, any public bridge and any road, lane, footway, square, court, alley

or passage, whether a thoroughfare or not. R.S.O. 1970, c. 377, s. 1; 1972, c. 1, s. 1; 1974, c. 61, s. 1; 1975, c. 61, s. 1.

Powers of Minister

2. Where by this Act powers are conferred or duties imposed upon the Ministry, such powers may be exercised and duties discharged by the Minister. R.S.O. 1970, c. 377, s. 2; 1972, c. 1, s. 1.

Appointment of inspectors

3.—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors for the purposes of any section or portion of this Act or the whole or any portion or section of a regulation made under this Act that is referred to in the appointments and in an appointment may limit the authority of an inspector in such manner as the Minister considers necessary or advisable.

Certificate of appointment

(2) The Minister shall issue to every inspector a certificate of his appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request. 1974, c. 61, s. 2, *part*.

Powers of inspectors

4.—(1) An inspector appointed under section 3 or employed by a local board may at all reasonable times enter any business premises that are licensed or registered or the owner, user or operator of which is licensed or registered under this Act or the regulations to ensure that the provisions of this Act or the regulations to which his appointment or employment extends are complied with. 1974, c. 61, s. 2, *part*.

Order authorizing entry

(2) Where a justice of the peace is satisfied, upon an *ex parte* application by an inspector, public health inspector, medical officer of health, acting medical officer of health or associate medical officer of health, that there is reasonable ground for believing that it is necessary to enter any institution, building or place, including a private residence, for the administration of this Act or the regulations, the justice of the peace may, whether or not an inspection, examination, investigation or inquiry has been made or attempted under any other section or subsection, issue an order authorizing an inspector or other such officer, together with such police officer or officers as he calls upon to assist him and if necessary by force, to enter therein or thereon and to make or require to be made such examinations, investigations and inquiries as may be necessary for the administration of this Act and the regulations and to make, take and remove or require to be made, taken or removed such samples, copies or extracts as may be related to the examinations, investigations and inquiries, but

every such entry, examination, investigation, inquiry and making, taking and removing of samples, copies or extracts shall be carried out between sunrise and sunset unless the justice of the peace authorizes the inspector, or other such officer, by the order, to so act at night. 1974, c. 87, s. 1.

Director or other officer may require inspection

(3) Where a director or other officer of the Ministry having authority or power to issue licences or make registrations under any section of this Act or the regulations has reasonable and probable grounds to believe that any person is acting or that any institution, building or place other than a private dwelling is being used without being licensed or registered as required by this Act or the regulations, the director or other officer of the Ministry may direct any inspector to make an inspection and the inspector at any reasonable time may enter the institution, building or place other than a private dwelling to make an inspection for the purpose of determining whether or not any person is in contravention of any section of this Act or the regulations in respect of such licensing or registration.

Making of copies

(4) Upon an inspection under this section, the inspector may upon giving a receipt therefor remove any material that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected.

Admissibility of copies

(5) Any copy made as provided in subsection (3) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Obstruction

(6) No person shall obstruct the inspector or withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection. 1974, c. 61, s. 2, *part*.

Protection from personal liability

5.—(1) No action or other proceeding for damages shall be instituted against an inspector appointed under section 3 or a director or other officer of the Ministry having authority or power to issue licences or make registrations or to direct an inspector to make an inspection under any section of this Act or the regulations or anyone acting under the direction of such director or other officer of the Ministry or inspector appointed under section 3 for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

Crown not relieved of liability R.S.O. 1980, c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1974, c. 61, s. 2, *part*.

Chief Inspector of Health

6.—(1) The Lieutenant Governor in Council may appoint a legally qualified medical practitioner of at least five years standing to be Chief Inspector of Health.

Duties and powers

(2) The Chief Inspector of Health may exercise, anywhere in Ontario, any of the powers conferred by this Act on medical officers of health, and he shall act under the direction of the Minister and shall perform such duties as are assigned to him by the Minister or by the Deputy Minister. R.S.O. 1970, c. 377, s. 3.

Duties and powers of Ministry

7. It is the duty of the Ministry and it has power,

(*a*) to make investigations and inquiries respecting the causes of disease and mortality in Ontario or in any part thereof;

(*b*) to advise the officers of the Government in regard to public health generally, and as to drainage, water supply, disposal of garbage and excreta, heating, ventilation and plumbing of premises;

(*c*) to exercise a careful oversight of vaccine matter and serum produced or offered for sale in Ontario, or manufacture the same if considered advisable, and as far as possible prevent its sale when found to be impure or inert, and ensure that a supply of proper vaccine matter is obtainable at all times at such vaccine farms and other places as are subject to inspection by the Ministry;

(*d*) to determine whether the existing condition of any premises or of any street or public place, or the method of manufacture or business process, or the disposal of sewage, trade or other waste, garbage or excrementitious matter is a nuisance or injurious to health;

(*e*) to inspect all correctional institutions, homes for the aged, sanitaria, hospitals, sanatoria, orphanages, homes or places or refuge, charitable institutions and other public or private institutions for the

safekeeping, custody or care of any person confined therein by process of law, or received or cared for therein at his own charges or by public or private charity, and ensure that such institutions are kept in a proper sanitary condition and that this Act and the regulations are complied with;

(*f*) to make public distribution of sanitary literature, especially during the prevalence in any part of Ontario of any communicable disease, and pay particular attention to all matters relating to the prevention and spread of communicable diseases in such manner as the Ministry considers best to control any outbreak;

(*g*) to enter into and go upon any premises in the exercise of any power or the performance of any duty under this Act, and make such orders and give such directions with regard to the structural alteration of the premises or with respect to any other matter as the Ministry considers advisable in the interests of the public health. R.S.O. 1970, c. 377, s. 4; 1972, c. 1, s. 1.

Investigation as to disease and mortality

8.—(1) The Minister may direct an officer of the Ministry to investigate the causes of any communicable disease or mortality in any part of Ontario, and the person so directed may take evidence on oath or otherwise, as he considers expedient, and, for the purposes of such investigation, has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 377, s. 5 (1); 1971, c. 49, s. 18; 1972, c. 1, s. 1.

R.S.O. 1980, c. 411

Investigation as to unsanitary conditions and nuisances

(2) Where it appears to the Ministry that any unsanitary condition or nuisance exists in a municipality and that the local board has on a proper representation of the facts neglected or refused to take such measures as may remove such condition or abate such nuisance, the Minister may direct an investigation under subsection (1).

Removal or abatement

(3) If upon such investigation it is found that a remediable unsanitary condition or nuisance exists, the Ministry may direct its immediate removal or abatement by the person responsible therefor and, if such person neglects or refuses after three days notice by the Ministry to remove or abate the same, may cause such removal or abatement to be made, and the treasurer of the municipality shall forthwith pay out of any money of the municipality any expenses incurred under any such order.

(4) Where it appears to the Ministry to be in the interests of the public health, the Minister may appoint the medical officer of a Government institution a medical officer of health with duties confined to the institution and to the inmates and staff thereof. R.S.O. 1970, c. 377, s. 5 (2-4); 1972, c. 1, s. 1. M.O.H., appointment of

9. The Minister, with the approval of the Lieutenant Governor in Council, may make regulations for, Regulations:

1. the prevention or mitigation of disease; prevention or mitigation of disease
2. the frequent and effectual cleansing of streets, yards and premises; cleansing streets and premises
3. the removal of nuisances and unsanitary conditions; removal of nuisances, etc.
4. the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; cleansing and disinfecting premises
5. regulating, so far as the Legislature has jurisdiction in that behalf, the entry and departure of boats or vessels at the different ports or places in Ontario, and the landing of passengers or cargoes from such boats or vessels or from railway carriages or cars, and the receiving of passengers or cargoes on board the same, for the purpose of preventing the spread of any communicable disease; passenger traffic
6. the safe and speedy interment or disinterment of the dead, the transportation of corpses and the conduct of funerals. R.S.O. 1970, c. 377, s. 6, pars. 1-6. burials
7. the supplying of such medical aid, medicine and other articles and accommodations as the Ministry considers necessary for preventing or mitigating an outbreak of any communicable disease. R.S.O. 1970, c. 377, s. 6, par. 7; 1972, c. 1, s. 1. checking communicable diseases
8. designating any substance, other than insulin, for the control or treatment of diabetes and prescribing the terms and conditions upon which he may supply, or contribute towards the cost of supplying, free of charge to indigent persons under section 90 insulin or any designated substance, and the forms to be used in connection therewith, and requiring and providing for the payment by the municipality in which the indigent person resides of insulin, etc.

a contribution towards the cost thereof in an amount not to exceed 25 per cent of such cost. R.S.O. 1970, c. 377, s. 6, par. 8.

inspection for the purpose of disinfection

9. the inspection of premises by the local board or medical officer of health, or an officer of the Ministry, and the cleansing, purifying and disinfecting of anything contained therein when required by the local board or officer, at the expense of the owner or occupier, and for detaining for such purpose any steamboat, vessel, railway carriage or car or public conveyance and anything contained therein and any person travelling thereby; R.S.O. 1970, c. 377, s. 6, par. 9; 1972, c. 1, s. 1.

ordering alteration or destruction

10. entering and inspecting any premises used for human habitation in any locality in which conditions exist that, in the opinion of the Ministry, are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building that is, in the opinion of the Ministry, unfit for human habitation; R.S.O. 1970, c. 377, s. 6, par. 10; 1972, c. 1, s. 1.

preventing overcrowding

11. preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises and the amount of air space to be allowed for each dweller therein;

preventing travel by persons exposed to infection

12. preventing the departure of persons from infected localities and for preventing persons or conveyances from passing from one locality to another, and for detaining persons who or conveyances that have been exposed to infection for inspection or disinfection until the danger of infection is past;

vaccination

13. requiring the vaccination, revaccination or quarantine of persons for the purposes of sections 96 and 97 and governing and regulating such vaccination, revaccination and quarantine, and classifying persons for the purposes thereof;

public health inspectors

14. regulating the appointment of public health inspectors to be paid by the municipality in which they act for the purpose of enforcing this Act or the regulations, or any by-law in force in the municipality;

surveillance

15. the removal or keeping under surveillance of persons living in infected localities;

16. authorizing the taking possession by a municipal corporation, local board or medical officer of health, for any of the purposes of this Act, of any land or unoccupied building; taking possession of premises

17. the sanitary precautions to be taken in health resorts, summer resorts and upon boats or other vessels plying upon lakes, rivers, streams and other inland waters, and for preventing the pollution of such waters by the depositing therein of sewage, excreta, vegetable, animal or other matter or filth; R.S.O. 1970, c. 377, s. 6, pars. 11-17. health and summer resorts and inland waters

18. any other matter that, in the opinion of the Ministry, the general health of the inhabitants of Ontario or of any locality may require; R.S.O. 1970, c. 377, s. 6, par. 18; 1972, c. 1, s. 1. general

19. authorizing local boards to establish, maintain and operate such facilities for community health services as are prescribed and governing their establishment, operation and use; community health services

20. the manufacture of non-intoxicating beverages and distilled and mineral water, and the manufacture of syrups, wines and brewed beers; manufacture of beverages

21. the inspection and licensing of plants and premises for the manufacture of non-intoxicating beverages and distilled and mineral water, and the manufacture of syrups, wines and brewed beers; inspecting, etc., beverage plants and premises

22. prescribing the duties and powers of officers designated under section 16; duties of officers

23. the medical and dental inspection and dental treatment of pupils in public, separate, and secondary schools, where such inspection and treatment is undertaken by local boards under this Act, and for the apportionment and payment of all moneys appropriated by the Legislature for that purpose; medical and dental inspection in schools

24. prescribing the amounts, terms and conditions applicable to the payment of grants under section 25 or 26 and designating non-profit organizations or institutions for the purpose of section 26; grants: designation of organizations and institutions

25. prescribing services in addition to those mentioned in clause 1 (*d*); additional health services

pasteurization of milk

26. regulating the pasteurization of milk and prescribing the form and the conditions under which a certificate of approval may be issued to any plant in which milk is pasteurized or in which milk products are prepared; R.S.O. 1970, c. 377, s. 6, pars. 19-26.

times and temperatures for pasteurization

27. prescribing the temperatures and times for the pasteurization of milk; 1975, c. 61, s. 2, *part*.

courses for officers, etc.

28. providing for courses of instruction and prescribing qualifications for medical officers of health, public health inspectors, food and dairy inspectors and public health nurses;

duties of officers, nurses, etc.

29. prescribing the duties of medical officers of health, public health inspectors, food and dairy inspectors and public health nurses, in relation to public health matters not specifically provided for by this Act;

industrial wiping rags

30. defining industrial wiping rags and prescribing methods of processing or preparing such rags for use in industry, and regulating the sale or the offering for sale of such rags, and prohibiting the sale or the offering for sale of such rags that have not been processed or prepared as prescribed by the regulations;

sale of drinking water

31. governing, regulating and prohibiting the procurement, transportation, handling and sale of water for human consumption by tank truck or otherwise, and requiring the approval of the medical officer of health to the procurement, transportation, handling and sale of such water; R.S.O. 1970, c. 377, s. 6, pars. 27-30.

camps and resorts

32. defining, regulating and licensing recreational camps, summer resorts and agricultural camps but not including premises commonly known as tourist camps, boarding houses or lodging houses; R.S.O. 1970, c. 377, s. 6, par. 31; 1974, c. 61, s. 3.

communicable diseases

33. designating diseases as communicable diseases; 1975, c. 61, s. 2, *part*.

location, construction, etc., of dwellings

34. prescribing standards for the location, construction, alteration, repair and equipment of premises to be used as dwellings;

35. prescribing standards for the construction, operation and maintenance of premises used for public cold storage of food for human consumption and requiring licences for such premises and fixing an annual licence fee of not more than $5; cold storage plants

36. defining public swimming pools and governing and prohibiting the construction, alteration, repair, location, operation, maintenance and use of public swimming pools, and classifying public swimming pools and exempting any class from the requirements of any provision of the regulations, and requiring the installation and maintenance of safety equipment, attendance of qualified life guards and other staff, and other matters or things required for the safety or protection of bathers in public swimming pools; swimming pools

37. prescribing the manner, method, times and conditions of payment of the grants to hospitals approved under the *Public Hospitals Act* for the establishment and operation of accommodation and facilities for the care and treatment of expectant mothers and infants; expectant mothers and infants R.S.O. 1980, c. 410

38. prescribing standards for the construction, operation and maintenance of premises where food or drink for human consumption is manufactured, processed or handled; food standards

39. regulating or restricting the manufacturing, processing, preparing, selling or offering for sale of any food or drink for human consumption; R.S.O. 1970, c. 377, s. 6, pars. 34-39; 1972, c. 80, s. 1 (1). food handling

40. requiring persons who operate or are employed in premises where food or drink for human consumption is manufactured, processed or handled to comply with directions that may be issued by medical officers of health to undergo such medical or other tests as are necessary to ensure the sanitary handling of food and drink; food premises, orders for tests

41. authorizing medical officers of health or public health inspectors for the purposes of this Act or the regulations to examine and take samples of food or drink, to examine or require the examination of equipment and utensils, to take samples from equip- food premises, samples

ment and utensils for laboratory examination, and to prescribe and test temperatures of food that is being processed, transported, stored, displayed or offered for sale;

exemptions by medical officers of health

42. authorizing medical officers of health to exempt persons, facilities or things from any provision of a regulation made under this section;

exemptions, other

43. exempting any person, premises or class of either of them from any provision of a regulation made under this section; 1975, c. 61, s. 2, *part*.

grants for maintenance of isolation hospitals

44. providing for the payment of grants for the maintenance of isolation hospitals, the methods of determining the amounts of such grants and the manner and times of payment of such grants and for withholding such grants and making deductions therefrom;

contributions for polio-myelitis treatment

45. designating institutions to which the Minister may make contributions toward the cost of the maintenance, treatment and special treatment of persons in such institutions who are suffering from poliomyelitis or from impairment of muscular function as a result of having been infected with poliomyelitis and prescribing the methods of determining the amounts of contributions and the manner and times of payment thereof;

ionizing radiation

46. regulating, restricting or prohibiting the installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation; R.S.O. 1970, c. 377, s. 6, pars. 40-42.

disposal of refuse

47. governing, regulating and restricting the storage, collection and diposal of garbage and refuse in private premises and households; 1972, c. 80, s. 1 (2).

cancer surveys

48. designating hospitals, sanatoria and other institutions for the purpose of section 89, and prescribing and regulating the reports mentioned therein. R.S.O. 1970, c. 377, s. 6, par. 44.

"Outdoor festival" defined

10.—(1) In this section, "outdoor festival" means a festival for the assembly of more than 2,000 people out of doors for a period of at least twenty-four hours and for the provision of musical or theatrical entertainment thereat.

(2) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations, Regulations

(*a*) governing health and safety standards for the protection of persons attending outdoor festivals and of the public generally and requiring the provision of facilities and services for the purpose;

(*b*) requiring any person responsible for the health and safety standards at outdoor festivals to be bonded in such form and terms and with such collateral security as are prescribed and providing for the forfeiture of bonds and the disposition of the proceeds;

(*c*) requiring the furnishing of such information or reports respecting outdoor festivals as are prescribed and authorizing an officer of the Ministry to require such additional information or reports as are considered necessary, and requiring any such information or reports to be verified by affidavit.

(3) Every person who contravenes any provision of the regulations made under this section is guilty of an offence and on conviction is liable to a fine of not more than $10,000. 1971, c. 95, s. 1; 1972, c. 1, s. 1. Penalty

11.—(1) Any regulation made under section 9 may be limited as to time or place or to both. Regulations may be limited

(2) Regulations heretofore made shall be deemed to be general in their application unless such application is inconsistent with the intent and purpose of such regulations. R.S.O. 1970, c. 377, s. 7. Regulations heretofore made

12. In the event of conflict between, Conflict

(*a*) any regulation; and

(*b*) any by-law passed by a municipality or any by-law passed under section 157 by the board of health of a health unit,

the regulation prevails. R.S.O. 1970, c. 377, s. 8.

13. The Deputy Minister, the district officers of health, the provincial public health inspectors in unorganized areas, and any other officer of the Ministry specially authorized for the purpose, possess all the powers conferred upon a Powers of officers of the Ministry

medical officer of health and the officers of a local board by this Act or by the regulations. R.S.O. 1970, c. 377, s. 9; 1972, c. 1, s. 1.

Health districts and district officers

14.—(1) The Lieutenant Governor in Council may divide Ontario for the purposes of this section into not more than ten health districts and may appoint a legally qualified medical practitioner to be known as the district officer of health for each such district.

Salaries, etc., of district officers of health

(2) Every district officer of health shall be paid such salary as is fixed by the Lieutenant Governor in Council and his actual and necessary travelling and other expenses incurred in the discharge of his duties, and such salary and expenses are payable out of such sums as are appropriated by the Legislature for that purpose.

District officers of health, duties of

(3) Every district officer of health,

(*a*) is within his district the official representative of the Ministry and, subject to the approval of the Minister or the Deputy Minister, has general control of statutory organization for public health;

(*b*) for the promotion of public health and for the protection of the inhabitants from communicable disease, has authority, subject to the approval of the Minister, to enforce this Act and the regulations and is responsible through the local medical officer of health for the enforcement of this Act and the regulations; and

(*c*) has, for the further effective carrying out of this Act and the regulations, all the powers and rights and authority to perform all the functions and duties of the local medical officer of health or the public health inspector under this Act.

May act in other districts

(4) Whenever required so to do by the Ministry, a district officer of health has the same authority and shall perform the same duties in any part of Ontario as he might do in the district for which he is appointed.

To act under Ministry

(5) Every district officer of health shall act under the supervision and control of the Ministry, and shall report to it at least monthly, and at such other times as are required, and shall in such report give such information as is required by the Ministry or by the regulations.

Enforcement of sanitary by-laws

(6) The Ministry, every district officer of health and inspector, and every medical officer of health and public health inspector have authority to enforce the by-law set out in Schedule B, or any amendment thereof approved by the Ministry, and any by-law respecting the milk supply of, and any other by-law respecting sanitary matters in, a municipality, and for such purpose may institute proceedings for the prosecution of offenders against any of the said by-laws.

Authority to call special meeting

(7) A district officer of health may summon a special meeting of a local board for public health purposes.

Powers of district officer of health in unorganized territory

(8) In territory without municipal organization, a district officer of health has the same rights and powers and shall perform the same duties as are conferred and imposed upon the local municipal councils, local boards and local medical officers of health in the administration and enforcement of this Act and the *Venereal Diseases Prevention Act*. R.S.O. 1970, c. 377, s. 10; 1972, c. 1, s. 1.

R.S.O. 1980, c. 521

Clinical laboratory centres

15. The Minister may establish and maintain clinical laboratory centres at such places and with such buildings, appliances and equipment as he considers proper and may give directions from time to time as to the operation of such laboratory centres, the nature and extent of the work to be done and the supplies necessary therefor, and the cost of establishing, furnishing and maintaining any clinical laboratory under this section shall be borne and paid out of such moneys as are appropriated by the Legislature for that purpose. R.S.O. 1970, c. 377, s. 11.

Designation of officers to supervise, etc., medical and dental work in schools

16. The Minister may designate which officers of the Ministry shall inspect and supervise the work of school medical officers, dental officers and nurses appointed by boards of education, school boards or local boards of health for the purpose of medical and dental inspection in public, separate, and secondary schools throughout Ontario, and such officers shall perform all duties required of them by the Ministry and by this Act, the *Education Act*, or any other Act or any regulations made thereunder with respect to such medical and dental inspection. R.S.O. 1970, c. 377, s. 12; 1972, c. 1, s. 1.

R.S.O. 1980, c. 129

LOCAL BOARDS OF HEALTH

Local boards:

17.—(1) There shall be a local board of health for every municipality in Ontario, except where a health unit is established under this Act. R.S.O. 1970, c. 377, s. 13 (1).

in cities and in towns of 4,000 or over

(2) In a city and in every town having a population of 4,000 or over according to the enumeration of the assessors for the last preceding year, the local board shall consist of the mayor and four resident ratepayers to be appointed annually by the council at its first meeting in every year. 1974, c. 61, s. 4, *part*.

in cities over 100,000

(3) In a city having a population of 100,000 or over according to the enumeration of the assessors for the last preceding year, or in a township situate within The Municipality of Metropolitan Toronto, the council may by by-law provide that the local board shall consist of the mayor and,

(*a*) six resident ratepayers, at least two of whom are not members of the council; or

(*b*) eight resident ratepayers, at least three of whom are not members of the council. 1974, c. 61, s. 4, *part*; 1975, c. 61, s. 3.

appointment of resident ratepayers

(4) The resident ratepayers referred to in clauses (3) (*a*) and (*b*) shall be appointed annually by the council at its first meeting in every year. R.S.O. 1970, c. 377, s. 13 (4).

appointment of member of council

(5) One or more members of the council may be appointed to be members of the local board.

secretary

(6) The local board shall have a secretary, and, unless otherwise provided by the council, the clerk shall be the secretary.

where health unit established

(7) Where a health unit is established, the local board thereof shall be constituted and appointed as provided by the regulations, and such local board shall take the place of the local board or boards which but for the establishment of the health unit would exist in the municipality or municipalities forming the health unit. R.S.O. 1970, c. 377, s. 13 (7-9).

Corporate name

18. Every local board is a corporation by the name of "The Local Board of Health of the City (*or as the case may be*) of....." (*inserting the name of the municipality*). R.S.O. 1970, c. 377, s. 14.

Meetings

19.—(1) A local board shall hold at least four meetings in each year at a time and place to be fixed by resolution

of the board, and such other meetings as are prescribed by the regulations or required by the board.

Chairman

(2) At the first meeting of a local board in every year, which shall be held not later than the 1st day of February, the board shall elect one of its members to be chairman. R.S.O. 1970, c. 377, s. 15.

Special meetings

20. Any member of a local board may call a special meeting thereof at any time by giving notice in writing to the other members of the board and to the secretary. R.S.O. 1970, c. 377, s. 16.

Clerk to report membership of board to Ministry

21. The clerk of the municipality shall report to the Ministry the names and addresses of the members of the local board in each year on or before the 1st day of February, and he shall so report any change occurring during the year in the membership of the board. R.S.O. 1970, c. 377, s. 17; 1972, c. 1, s. 1.

Vacancies in board

22. Whenever a vacancy occurs in a local board of a city or town by the death, resignation or removal of an appointed member, the council, at its first meeting after the vacancy occurs, shall appoint a resident ratepayer to fill the vacancy and, in default of such appointment, the Ministry may appoint a resident ratepayer of the municipality to fill the vacancy. R.S.O. 1970, c. 377, s. 18; 1972, c. 1, s. 1.

Quorum

23. A majority of the members of a local board is a quorum. R.S.O. 1970, c. 377, s. 19.

Payment of accounts certified by board

24.—(1) The treasurer of the municipality shall forthwith upon demand pay the amount of any account for services performed under the direction of the board and materials and supplies furnished, or for any expenditure incurred by the board or by the medical officer of health or public health inspector in carrying out this Act or the regulations or in carrying out its functions under any other Act or the regulations thereunder, after the board has by resolution approved of the account and a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer.

Expenditures for school medical and dental inspection

(2) Subsection (1) applies to payment of any expenditure incurred by a local board in providing medical and dental inspection of pupils in any school pursuant to section 132.

Rates for school purposes

(3) The amounts of any payments made by the treasurer for the purposes mentioned in subsection (2) shall be levied

and collected by a special rate on the rateable property of the supporters of the school or schools for whose pupils medical and dental inspection is provided by the local board. R.S.O. 1970, c. 377, s. 20.

Grants for full-time public health services

25. The Minister may pay grants in such amounts and upon such terms and conditions as the regulations prescribe to the board of health of a municipality that provides full-time public health services. R.S.O. 1970, c. 377, s. 21.

Interpretation

26.—(1) In this section, "community health facility" means any building or place or any part of a building or place that is maintained, operated or used,

(*a*) for the diagnosis, treatment or rehabilitation of persons suffering from physical or mental disorders;

(*b*) for the prevention of physical or mental disorders; or

(*c*) by a local board performing its functions.

Grants for community health facilities

(2) The Minister may pay grants in such amounts and upon such terms and conditions as the regulations prescribe to a non-profit organization designated by the regulations, a municipality or a local board towards the cost of construction, alteration or additions to a community health facility.

Exceptions

(3) This section does not apply to a hospital, sanatorium or other institution of a class designated by the regulations. R.S.O. 1970, c. 377, s. 22.

Recording proceedings

27.—(1) The proceedings of every local board shall be recorded by the secretary in a book to be kept for that purpose.

Annual report

(2) The secretary shall annually, on or before the 15th day of February, prepare a report of the work done by the board during the year and of the sanitary condition of the municipality.

Report to be transmitted to Deputy Minister

(3) The report as adopted by the local board shall include the annual report of the medical officer of health and shall be transmitted to the Deputy Minister. R.S.O. 1970, c. 377, s. 23.

Weekly report to Ministry

28. The secretary of every local board shall report weekly to the Ministry the number of cases of and deaths from communicable diseases, and the number of deaths

from all other causes occurring in the municipality during the preceding week, upon a form to be supplied by the Ministry. R.S.O. 1970, c. 377, s. 24; 1972, c. 1, s. 1.

Enforcing authority of local board

29.—(1) Whenever a local board has authority to direct that any matter or thing be done by a person, the board may also, in default of its being done by the person, direct that such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof by action in any court of competent jurisdiction, or the board may direct that the same be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes.

Installation of sanitary conveniences, etc., by municipality

(2) Where a local board in a municipality in which a sewerage system has been established,

(*a*) recommends that sanitary conveniences or suitable connections with water service should be installed in any building; and

(*b*) is of the opinion that the owner of the premises is unable or unwilling to pay the expense of such installation at once,

the municipality may install suitable conveniences and construct private drain connections required to connect such sanitary conveniences with the common sewers of the municipality, or may install a water service pipe with the necessary connections to give a proper supply of water to the premises at the expense of the owner.

Idem, payment of cost

(3) The municipality may direct that the cost of the conveniences and connections mentioned in subsection (2), including interest at a rate of not more than 6 per cent on the deferred payments, be paid by the owner in equal successive annual payments extending over a period of not more than five years, and may direct that such payments be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes.

Registration of certificate of charges for installing sanitary conveniences

(4) A certificate from the clerk of the municipality setting forth the cost of the conveniences and a description of the lands upon which the same were installed shall be registered in the proper land registry office against the lands on proper proof by affidavit of the signature of the clerk, and, upon payment in full of the cost of the conveniences, a like certificate from the clerk shall be registered and thereupon the lands are freed from all liability with reference thereto. R.S.O. 1970, c. 377, s. 25.

Municipality may assume reponsibility for board or employees

30.—(1) Where an action is brought against a local board or any member, officer or employee of a local board by a person who has suffered damage by reason of any act or default on the part of the local board or any member, officer or employee thereof, the corporation of the municipality may assume the liability or the defence of the action and may pay any damages or costs for which the board or the member, officer or employee is liable in respect of such act or default.

but not for contractors

(2) In this section, "employee" does not include a contractor with the local board. R.S.O. 1970, c. 377, s. 26.

Duty of local board as to carrying out Act and regulations

31. It is the duty of a local board to superintend and ensure the carrying out of this Act and the regulations and any by-law of the municipality pertaining to public health, and to execute, do and provide all such acts, matters and things as are necessary for that purpose. R.S.O. 1970, c. 377, s. 27.

Complaints as to nuisances

32. Where information is given in writing to the local board by a resident householder of the existence of a nuisance or unsanitary condition in the municipality, the local board shall forthwith cause the complaint to be investigated and all necessary steps to be taken as provided by this Act or by the regulations to abate or remedy the same. R.S.O. 1970, c. 377, s. 28.

Cleansing and disinfecting houses, etc.

33.—(1) Where a medical officer of health is of opinion that the disinfecting of a house or part thereof, or of any articles therein likely to retain infection, would tend to prevent or check any communicable disease, he shall, through the public health inspector or otherwise, at the cost and charge of the municipality, disinfect such house or part thereof and the articles therein contained.

Idem

(2) The disinfecting, renovating and cleansing of houses and premises shall be carried on in accordance with the regulations. R.S.O. 1970, c. 377, s. 29.

Ambulance

34. A local board may provide, maintain or hire an ambulance for the conveyance of persons requiring medical attention and may pay the expense of conveying therein any person requiring medical attention to a hospital or other place. R.S.O. 1970, c. 377, s. 30.

Disinfecting apparatus

35. A local board may provide all necessary apparatus and attendance for the disinfection or destruction of bedding, clothing or other articles that have become infected, and may cause such articles to be disinfected free of charge or may

make a reasonable charge for disinfecting them. R.S.O. 1970, c. 377, s. 31.

Destruction of infected bedding, etc.

36. A local board may direct the destruction of any furniture, bedding, clothing or other articles that have been exposed to infection, and may give compensation therefor. R.S.O. 1970, c. 377, s. 32.

Appeal to county judge from order of board

37. Where the order of a local board or medical officer of health involves an expenditure of more than $1,000, the person against whom the order is made or any person chargeable with such expenditure or any part thereof may, within four days after being served with a copy of the order, appeal therefrom to the judge of the county or district court who has power to vary or rescind the order, and any order so varied may be enforced by the Ministry in the same manner as an order originally made by the board or a medical officer of health. R.S.O. 1970, c. 377, s. 33; 1972, c. 1, s. 1.

Powers of Minister on default of local authorities

38.—(1) Where a local board has not been established as required by this Act, or where a local board or any officer thereof has, in the opinion of the Minister, refused or neglected to act with sufficient promptness or efficiency in carrying out this Act or any order or regulation of the Ministry, or to take such efficient measures as might remove any unsanitary condition or abate any nuisance, the Minister may direct an officer of the Ministry to carry out such measures as are authorized by this Act or by any order or regulation made thereunder.

Liability for payments of expenses

(2) The expenses so incurred shall be certified by the Minister and are a debt due by the corporation of the municipality and, upon presentation of such certificate, the treasurer of the municipality shall pay the same.

Recovery of expenses of carrying out orders of Ministry

(3) The corporation of the municipality whose treasurer pays the expenses so incurred as provided by subsection (2) may recover the amount so paid by action in any court of competent jurisdiction against the person certified in writing by the Minister to have been in default, or the council of the municipality may direct the amount of the expenses to be added by the clerk of the municipality to the collector's roll and collected from the person so certified to be in default in like manner as municipal taxes. R.S.O. 1970, c. 377, s. 34; 1972, c. 1, s. 1.

MEDICAL OFFICERS OF HEALTH

Full-time public health services

39.—(1) Every municipality that does not form part of a health unit shall provide such full-time public health services as the Minister may require.

Idem

(2) Where a municipality fails to provide full-time public health services as required by the Minister, the Minister may furnish or cause to be furnished the full-time public health services required, and the cost thereof shall be charged to the municipality. R.S.O. 1970, c. 377, s. 35 (1, 2).

Medical officer of health

(3) The council of every municipality that is not included in a health unit shall, subject to the approval of the Minister, appoint a legally qualified medical practitioner to be medical officer of health for the municipality. 1972, c. 80, s. 2.

Acting medical officers of health, appointment

(4) Where a vacancy occurs in the office of medical officer of health or the medical officer of health is ill or absent from the municipality for a protracted period, the council of the municipality, with the approval of the Minister, may appoint an acting medical officer of health and such acting medical officer of health, during the vacancy or the illness or absence of the medical officer of health, has all the powers and shall perform all the duties of the medical officer of health.

Associate medical officers of health, appointment

(5) The council of a municipality, with the approval of the Minister, may appoint one or more associate medical officers of health who shall act under the direction of the medical officer of health, and while so acting an associate medical officer of health has all the powers and shall perform the same duties as a medical officer of health. R.S.O. 1970, c. 377, s. 35 (3, 4).

Associate medical officer of health, temporary powers

(6) Where a vacancy occurs in the office of medical officer of health or the medical officer of health is ill or absent from the municipality and an acting medical officer of health is not appointed, an associate medical officer of health during the vacancy or the illness or absence of the medical officer of health has all the powers and may perform all the duties of the medical officer of health. 1975, c. 61, s. 4.

Appointment of nurses and physicians by council or local board

(7) The council of a municipality or a local board may appoint one or more food and dairy inspectors, one or more public health nurses, and one or more legally qualified physicians and engage such other services as are, in the opinion of the council or local board, required for carrying out this or any other Act administered by the Ministry or the regulations made thereunder for the prevention or treatment of disease. R.S.O. 1970, c. 377, s. 35 (5); 1972, c. 1, s. 1.

Appointment of nurse by one or more municipalities

(8) The council of a town, township or village, or the local board thereof, may unite with the council or councils or boards of health of one or more neighbouring municipalities for the purpose of appointing, employing and paying one or more public health nurses for the promotion of the public health and the prevention or treatment of disease, and such appointments are eligible for grants in respect of the same as are provided by the regulations.

Public health nurses

(9) Any person who is appointed under this Act as a public health nurse is subject to the direction and control of the medical officer of health for the municipality for which such nurse is appointed. R.S.O. 1970, c. 377, s. 35 (6, 7).

Health units, establishment

40.—(1) The council of a county may by by-law establish and declare the county to be a health unit.

idem

(2) The councils of two or more counties, or such number and type of municipalities in the same county or in different counties or territorial districts as are designated by the regulations, may enter into an agreement in writing for the formation of a health unit.

in a county

(3) Where a county, either alone or with another county or with a municipality separated from the county, is a health unit, the local municipalities in the county and not separated therefrom all form part of the health unit.

in territorial district

(4) A health unit may include any area in a territorial district that is designated by the Lieutenant Governor in Council.

Powers and duties

(5) Where a medical officer of health or an acting medical officer of health is appointed for a health unit, the provisions of this Act with respect to the appointment of municipal officers of health for the territory included in the health unit do not apply and the powers and duties of a medical officer of health in any such municipality shall thenceforth be exercised and performed by the medical officer of health or the acting medical officer of health for the health unit.

Regulations

(6) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations, which may be general or particular in their application,

(*a*) respecting the establishment of a health unit;

(*b*) providing for the constitution of a board of health in any health unit, fixing the number of members and defining the powers of the board;

(*c*) prescribing the powers, qualifications, salary and duties of a medical officer of health, an acting medical officer of health, associate medical officers of health, school medical officers, dental officers, nurses, public health inspectors and other technical health workers in a health unit;

(*d*) respecting the appointment and the tenure of office of the medical officer of health, acting medical officer of health, associate medical officers of health, school medical officers, dental officers, nurses, public health inspectors and other technical health workers in a health unit;

(*e*) apportioning any expense incurred in carrying out this section and the regulations among the municipalities and school sections concerned;

(*f*) prescribing the amounts, manner, method, times and conditions of payment of the grants to health units mentioned in subsection (9).

Expenses

(7) The expenses incurred by a health unit in establishing and maintaining the health unit and in performing its functions under this or any other Act shall be borne and paid in such proportion as is agreed upon or, in default of agreement, in such proportion as is fixed by the regulations.

Municipal action confirmed

(8) Notwithstanding any other Act, where a health unit has been established or is established, the municipalities making up the unit shall be deemed to have had and to have all such powers as may be necessary to carry out the by-law or agreement providing therefor and, without limiting the generality of the foregoing, any such municipality may incur continuing obligations and make provision for the discharge thereof and may contribute money to and expend money on carrying out the provisions of this Act and the regulations with respect to health units.

Provincial assistance

(9) Subject to the regulations, where a health unit is established under this Act, the Minister may grant such assistance for the establishment and maintenance of the health unit as he considers proper and any such grant is payable out of the moneys appropriated by the Legislature for that purpose. R.S.O. 1970, c. 377, s. 36.

Interpretation

41.—(1) In this section, "separated local board" means the local board of health of a health unit that has been formed under subsection 40 (2), and "separated health unit" has a corresponding meaning.

Extension of separated health units

(2) With the approval of the Minister, a separated local board may enter into an agreement with the council of a county or other municipality mentioned in subsection 40 (2) for such county or other municipality to form part of the separated health unit.

Corporate status

(3) A separated local board is a corporation to be known by such name as it may by by-law adopt with the approval of the Minister.

Property

(4) All property, real and personal, heretofore vested in a board of health of a health unit that has been formed under subsection 40 (2) is vested in the separated local board. R.S.O. 1970, c. 377, s. 37 (1-4).

Acquisition of real property

(5) With the consent of the municipalities forming a separated health unit as provided for in the agreement and, where no such provision is made in the agreement, with the consent of a majority of such municipalities, the separated local board may acquire and hold real and personal property for its purposes, and may sell, exchange, lease, mortgage or otherwise charge or dispose of any such property. 1972, c. 80, s. 3.

By-laws

(6) A separated local board may pass by-laws respecting,

(*a*) the management of its property;

(*b*) banking and finance;

(*c*) the holding or conducting of meetings;

(*d*) the appointment, duties and removal of officers and employees, and their remuneration, pensions and other benefits; and

(*e*) any matter necessary or advisable for the management of the affairs of the board.

Idem

(7) A copy of each by-law shall be delivered or sent by mail by the secretary of the separated local board to the clerk of each municipality forming the health unit within fifteen days of the by-law becoming effective. R.S.O. 1970, c. 377, s. 37 (6, 7).

Interpretation
R.S.C. 1970, c. I-6

42.—(1) In this section, "band" and "council of a band" have the same meaning as in the *Indian Act* (Canada).

Application of s. 40 to Indian bands

(2) The provisions of section 40 that apply to a township municipality apply with necessary modifications to a band, and the council of a band shall be deemed to be the council of a township municipality. R.S.O. 1970, c. 377, s. 38.

Tenure of office

43. Every public health inspector appointed by the council shall hold office during the pleasure of the council, and, if appointed by the Lieutenant Governor in Council, shall hold office until the 1st day of February in the year following that of his appointment. R.S.O. 1970, c. 377, s. 39.

Dismissal

44.—(1) Every medical officer of health appointed by the council shall hold office during good behaviour and his residence in the municipality, and, if appointed by the Lieutenant Governor in Council, shall hold office until the 1st day of February in the year following that of his appointment, and no medical officer of health shall be removed from office except on a two-thirds vote of the whole council and with the consent and approval of the Minister, who may require cause to be shown for the dismissal. R.S.O. 1970, c. 377, s. 40 (1).

Age of retirement of M.O.H.

(2) Every medical officer of health and every associate medical officer of health shall cease to hold office upon attaining sixty-five years of age but the municipal council, with the approval of the Minister, may continue a medical officer of health or associate medical officer of health in office from year to year until he attains the age of seventy years. 1974, c. 61, s. 5; 1975, c. 61, s. 5.

Appointment out of municipality

(3) Upon evidence satisfactory to the Minister that there is no person residing in a municipality qualified to be medical officer, the Minister may permit the council to appoint as medical officer of the municipality some person residing out of the municipality. R.S.O. 1970, c. 377, s. 40 (3).

Dismissal of M.O.H. for neglect of duty

(4) A medical officer of health who refuses or neglects to carry out this Act or the regulations, or any special order of the Ministry, or any by-law of the municipality relating to sanitary matters, may be dismissed from office by the Ministry or by the municipal corporation on the recommendation of the Ministry. R.S.O. 1970, c. 377, s. 40 (4); 1972, c. 1, s. 1.

M.O.H. to be executive officer of board

45. The medical officer of health is the executive officer of the local board and, with the local board, is responsible for the carrying out of this Act and the regulations and of the public health or sanitary by-laws of the municipality. R.S.O. 1970, c. 377, s. 41.

Protection from liability of medical officers and public health inspectors

46.—(1) No action or other proceeding shall be instituted against a medical officer of health, acting medical officer of health, associate medical officer of health or public health inspector for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

Local board of health not relieved of liability

(2) Subsection (1) does not relieve a local board of health of liability in respect of a tort committed by a person referred to in subsection (1) and a local board of health is liable for any such tort in a like manner as if subsection (1) had not been enacted. 1974, c. 87, s. 2.

Salaries of medical officers of health

47. Every medical officer of health, whether appointed by the council or by the Lieutenant Governor in Council, shall be paid by the municipal corporation a reasonable salary to be fixed by by-law, and such salary shall be his total remuneration for his services as medical officer of health. R.S.O. 1970, c. 377, s. 43.

Payment of public health inspectors

48. Public health inspectors shall be paid such annual sum as is determined by the council of the municipality. R.S.O. 1970, c. 377, s. 44.

MICROWAVE OVENS

Interpretation

49. In this section and in sections 50 to 57,

(*a*) "commercial microwave oven" means a microwave oven that is used other than in a private residence;

(*b*) "Director" means a Director appointed by the Minister for the purposes of sections 49 to 57;

(*c*) "inspector" means an inspector appointed under section 3 for the purposes of sections 49 to 57 or an inspector employed by a local board;

(*d*) "microwave oven" means any apparatus or device for heating food or material by absorption of electromagnetic radiation in the range of electromagnetic frequencies from 890 megahertz to 6,000 megahertz;

(*e*) "regulations" means the regulations made under section 57;

(*f*) "repairer" means a person who repairs microwave ovens for payment or compensation. 1975, c. 61, s. 6.

Registration of ownership

50. Every owner of a commercial microwave oven shall register ownership of the oven with the Director before using or causing or permitting the use of the oven. 1975, c. 61, s. 7.

Repairing of microwave ovens

51.—(1) No person shall work as a repairer of microwave ovens unless he has successfully completed a program of instruction in the repair of microwave ovens approved by the Minister of Colleges and Universities.

Proof

(2) For the purposes of subsection (1), proof of the performance of one act as a repairer on one occasion is sufficient to establish working as a repairer.

Exception

(3) Subsection (1) does not apply to a person who works under the supervision of a person who has successfully completed a program referred to in subsection (1) and who is physically present.

Production of evidence of qualification

(4) Every person to whom subsection (1) applies shall, while working as a repairer, carry with him evidence of successful completion of the program referred to in subsection (1) and shall produce it when required by an inspector. 1975, c. 61, s. 8.

Powers of inspector

52.—(1) An inspector may make an oral or written order directed to the person who is the owner or who has the control or supervision of a commercial microwave oven requiring the person to do the things and take the steps within the time or times specified in the order that the inspector, upon reasonable and probable grounds, considers necessary or advisable for the purpose of protecting the health or the safety of any persons in or about the premises where the commercial microwave oven is situated or is intended to be situated.

Idem

(2) Where the power density of the radiation leakage from a commercial microwave oven does not exceed the prohibited power density of radiation leakage but exceeds the permissible power density of radiation leakage prescribed by the regulations and an inspector is of the opinion that it is not safe to use the commercial microwave oven, the inspector may make an order prohibiting the use of the commercial

microwave oven until such time as it is repaired to reduce the power density of the radiation leakage below the permissible power density of radiation leakage prescribed by the regulations in respect of the oven. 1975, c. 61, s. 9, *part*.

Effect of order

53. Notwithstanding that an appeal is taken against an order of an inspector under section 52, the order is effective at and from the time it is communicated to the person to whom it is directed until confirmed, altered or rescinded on appeal and the person to whom the order is directed shall comply with the order immediately or within such period of time as may be specified in the order. 1975, c. 61, s. 9, *part*.

Hearings

54.—(1) Subsections 118 (1), (2), (4), (5) and (6), subsections 119 (2) to (8) and section 120 apply with necessary modifications where an order is made under section 52.

Parties

(2) The inspector, the person to whom the order is made and such other persons as the Health Facilities Appeal Board may specify are parties to the proceedings under subsection (1). 1975, c. 61, s. 9, *part*.

Prohibition

55.—(1) No person shall use or cause or permit the use of a commercial microwave oven where the person knows that the power density of the radiation leakage from the oven exceeds the prohibited power density prescribed by the regulations in respect of the oven.

Authority of Director

(2) Where the Director has reasonable or probable grounds for belief that a person using a commercial microwave oven has suffered or is likely to suffer physical impairment or injury, he may arrange for the medical examination of the person and may require the owner of the commercial microwave oven to pay for the medical examination. 1975, c. 61, s. 9, *part*.

Radiation level

56.—(1) Where a repairer is requested by the person who is the owner of or who has the supervision or control of a microwave oven to examine or to repair the oven, the repairer shall measure the power density of the radiation leakage from the oven and, where the power density measured exceeds the permissible power density of radiation leakage prescribed for the oven by the regulations, the repairer shall,

(*a*) inform the person of the power density measured and of the prohibited and permissible power densities prescribed by the regulations in respect of the oven; and

(*b*) where the owner or the person who has supervision or control of the oven refuses to have the oven repaired, give notice in writing forthwith to the Director in the form prescribed by the regulations.

Certificate

(2) A repairer who repairs a microwave oven shall measure the power density of the radiation leakage from the oven after completion of the repair and shall provide the person who is the owner or the person who has the supervision or control of the oven with a certificate in the form prescribed by the regulations stating the power density measured and the prohibited and permissible power densities of radiation leakage prescribed by the regulations in respect of the oven. 1975, c. 61, s. 10.

Regulations

57. The Lieutenant Governor in Council may make regulations,

(*a*) classifying microwave ovens or commercial microwave ovens or both;

(*b*) prescribing the prohibited and permissible power densities of radiation leakage for microwave ovens, commercial microwave ovens or any class or classes of either of them for the purposes of sections 49 to 57;

(*c*) prescribing the form and contents of warning or information devices or stickers and requiring their use on or in association with microwave ovens or commercial microwave ovens or any class of either of them; and

(*d*) prescribing forms for the purposes of sections 49 to 57 and providing for their use. 1975, c. 61, s. 11.

Commencement of ss. 49-57

58. Sections 49 to 57 do not come into force until a day to be named by proclamation of the Lieutenant Governor. 1975, c. 61, s. 14.

HEALTH FACILITIES

Interpretation

59. In this section and in sections 60 to 75,

(*a*) "Director" means the Director of Laboratory and Specimen Collection Centre Licensing appointed under section 60;

(*b*) "inspector" means an inspector appointed under section 70;

(*c*) "laboratory" means an institution, building, or place in which operations and procedures for the microbiological, serological, chemical, hematological,

biophysical, immunohematological, cytological or pathological examination of specimens taken from the human body are performed to obtain information for diagnosis, prophylaxis or treatment, but not including simple procedures prescribed by the regulations that are carried out by legally qualified medical practitioners exclusively for the purpose of the diagnosis and treatment of their patients;

(*d*) "operator" means a person having charge or control of a laboratory or a specimen collection centre;

(*e*) "regulations" means the regulations made under section 72;

(*f*) "Review Board" means the Laboratory Review Board established under section 61;

(*g*) "specimen collection centre" means a place where specimens are taken or collected from the human body for examination to obtain information for diagnosis, prophylaxis or treatment, but does not include a place where a legally qualified medical practitioner is engaged in the practice of medicine or surgery or a laboratory that is established, operated or maintained under a licence under this Act;

(*h*) "test" means a procedure for carrying out an examination referred to in clause (*c*) in a laboratory. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 1; 1974, c. 61, s. 6.

Director

60. The Minister shall appoint an officer of the Ministry to be the Director of Laboratory and Specimen Collection Centre Licensing for purposes of sections 59 to 72. 1973, c. 130, s. 2.

Laboratory Review Board

61.—(1) There shall be a Laboratory Review Board, which shall be composed of not more than five members, appointed by the Lieutenant Governor in Council who may designate one member as chairman.

Quorum

(2) Three members of the Review Board constitute a quorum. 1972, c. 80, s. 4, *part*.

Remuneration of Board members

62.—(1) The members of the Review Board who are not employed in the public service of Ontario shall be paid such remuneration and allowances as may be fixed by the Lieutenant Governor in Council in the appointment.

Protection from personal liability

(2) No action or other proceeding for damages shall be instituted against the Director, any member of the Review Board, or anyone acting under the authority of such Director or member of the Review Board for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. 1972, c. 80, s. 4, *part*.

Licence required

63.—(1) No person shall establish, operate or maintain a laboratory except under the authority of a licence issued by the Director under this Act and the Director may issue a licence for a laboratory to perform such classes of tests or such tests within a class or classes of tests and subject to such conditions as the Director may specify in the licence. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 3 (1).

Issuance of licence

(2) Subject to subsection (8), any person who applies in accordance with this Act and the regulations for a licence to establish, operate or maintain a laboratory and who meets the requirements of this Act and the regulations and who pays the prescribed fee is entitled to be issued the licence. 1972, c. 80, s. 4, *part*.

Licence required for specimen collection centre

(3) No person shall establish, operate or maintain a specimen collection centre except under the authority of a licence issued by the Director under this Act and the Director may issue a licence for a specimen collection centre to take or collect such specimens or class or classes of specimens and subject to such conditions as the Director may specify in the licence.

Issuance of licence for specimen collection centre

(4) Subject to subsection (8), any person who applies in accordance with this Act and the regulations for a licence to establish, operate or maintain a specimen collection centre and who meets the requirements of this Act and the regulations and who pays the prescribed fee is entitled to be issued the licence.

Where proposal not in public interest

(5) Except in the case of a specimen collection centre that is in operation immediately before the 10th day of June, 1974 and notwithstanding subsections (2) and (4), where an application is made for a licence and the Minister states in writing to the Director that it is not in the public interest to issue a licence to establish, operate or maintain the laboratory or specimen collection centre, as the case may be, in the area where the applicant proposes to establish, operate or maintain the laboratory or specimen collection centre, section 65 shall not apply and the Director shall not

issue the licence to the applicant and shall give written notice to the applicant of the refusal and of the Minister's statement.

Idem

(6) Except in the case of a specimen collection centre that is in operation immediately before the 10th day of June, 1974 and notwithstanding subsections (2) and (4), where an application is made for a licence and the Minister states in writing to the Director that it is not in the public interest to issue a licence,

(*a*) in the case of a laboratory, for any of such classes of tests or any of the tests within a class or classes of tests in respect of which the application is made; or

(*b*) in the case of a specimen collection centre, to take or collect such specimens or class or classes of specimens in respect of which the application is made,

sections 64 and 65 shall not apply, and where the Director issues a licence to the applicant upon such application the Director shall give written notice to the applicant of the Minister's statement and the licence shall not be for such classes of tests or such tests within a class or classes of tests or for taking or collecting such specimens or class or classes of specimens as are set out in the Minister's statement.

Matters to be considered by Minister

(7) In considering,

(*a*) under subsection (5), whether it is in the public interest to issue a licence,

(i) to establish, operate or maintain a laboratory in an area, or

(ii) to establish, operate or maintain a specimen collection centre in an area; or

(*b*) under subsection (6), whether it is in the public interest,

(i) in the case of a laboratory, to limit the classes of tests or the tests within a class or classes of tests, or

(ii) in the case of a specimen collection centre, to limit the specimens or class or classes of specimens,

in respect of which the Director may issue a licence to the applicant,

the Minister shall take into account,

(*c*) the number of laboratories or specimen collection centres, as the case requires, that operate under the authority of licences issued under this Act,

(i) in the area, or

(ii) in the area and any other area;

(*d*) the number of laboratories or specimen collection centres, as the case requires, operated by a Ministry or Ministries of the Crown,

(i) in the area, or

(ii) in the area and any other area;

(*e*) the tests and classes of tests performed in the laboratories or the specimens or class or classes of specimens taken or collected in the specimen collection centres, as the case requires,

(i) in the area, or

(ii) in the area and any other area;

(*f*) the utilization of existing laboratories or specimen collection centres, as the case requires, and their capacity to handle increased volume;

(*g*) the availability of facilities for the transportation of persons and specimens to laboratories or for the transportation of persons to specimen collection centres, as the case requires,

(i) in the area, or

(ii) in the area and any other area; or

(*h*) the funds available to provide payment for laboratory tests that are insured services under the *Health Insurance Act*. 1973, c. 130, s. 3 (2).

R.S.O. 1980, c. 197

Grounds for refusal

(8) Subject to section 65, the Director may refuse to issue a licence where in his opinion,

(*a*) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors affords reasonable grounds for belief that the laboratory or specimen collection centre will not be operated in accordance with the law and with honesty and integrity;

(*b*) the proposed laboratory or specimen collection centre or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;

(*c*) the applicant is not competent to operate a laboratory or specimen collection centre, as the case requires, in accordance with this Act and the regulations;

(*d*) the equipment and premises are not suitable for the performance of the tests or the taking or collecting of the specimens for which the licence is sought. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 3 (3-7).

Provisional licence

(9) Where the applicant for a licence does not meet all the requirements for issuance of the licence and requires time to meet such requirements, the Director may issue a provisional licence for the laboratory or specimen collection centre. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 3 (9).

Expiration and renewal of provisional licence

(10) A provisional licence expires six months after the date of its issue but may be renewed by the Director for two further six-month periods where in the opinion of the Director sufficient progress in complying with the requirements for issuance of a licence has been made.

Expiration and renewal of licence

(11) A licence that is not a provisional licence expires twelve months from the date of its issue or renewal and a renewal shall be issued where the applicant is not disqualified under subsection (17). 1972, c. 80, s. 4, *part*.

Stay of refusal to renew

(12) Where the Director refuses to renew a licence, the laboratory or specimen collection centre shall be deemed to continue to be licensed until an order is made by the Review Board or until the time for requiring a hearing by the Review Board expires, whichever occurs first. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 3 (10).

Operator to be named in licence

(13) It is a condition of a licence that the operation of the laboratory or specimen collection centre be under the charge and control of the operator named in the licence as operator and that the ownership of the laboratory or specimen collection centre be only in the persons named in the licence as owners. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 3 (11).

Conditions to laboratory licence

(14) It is a condition of a licence for a laboratory that,

(*a*) the performance of tests in the laboratory meet the generally accepted standards of proficiency in such tests;

(*b*) the owner and the operator of the laboratory submit the performance of tests in the laboratory to examinations and evaluations of proficiency carried out by the agency designated in the regulations;

(*c*) the owner of the laboratory pay the fees prescribed by the regulations for the examinations and evaluations by the agency designated in the regulations of proficiency in the performance of tests in the laboratory.

Idem

(15) Where an agency designated in the regulations to examine and evaluate proficiency in the performance of tests reports to the Director that the performance of a test in a laboratory does not meet the generally accepted standard of proficiency in the performance of the test, the Director may impose such conditions upon the licence in respect of the performance of the test in the laboratory as the Director considers necessary or advisable in order that the health of the public may be protected. 1974, c. 61, s. 7.

Notice of changes

(16) Where the operator or the owner named in the licence is a corporation, the corporation shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation. 1972, c. 80, s. 4, *part*.

Revocation or suspension of licence

(17) The Director may revoke or refuse to renew a licence where,

(*a*) any person has made a false statement in the application for the licence or a renewal thereof or in any report, document or other information required to be furnished by this Act or the regulations or any other Act or regulation that applies to the laboratory or specimen collection centre;

(*b*) any test authorized by the licence is incompetently performed;

(*c*) any specimen taking or collecting authorized by the licence is incompetently carried out;

(*d*) there is a breach of a condition of the licence;

(*e*) the owner or the operator does not comply with this Act or the regulations;

(*f*) the services that can be provided by the laboratory or specimen collection centre are misrepresented; or

(*g*) a change in the officers or directors of any corporation which is an operator or owner of a laboratory or specimen collection centre named in the licence would afford grounds for refusing to issue a licence under clause (8) (*a*). 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 3 (12-15).

Hearing re terms of licence

64.—(1) Where the Director issues a licence under this Act and any party to the proceeding is dissatisfied with the terms and conditions thereof prescribed by the Director, he may by written notice given to the Director and the Review Board require a hearing by the Review Board, and the Review Board shall appoint a time for and hold a hearing.

Decision of Review Board

(2) Pursuant to a hearing under subsection (1), the Review Board may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper and such terms and conditions shall be terms and conditions of the licence. 1972, c. 80, s. 4, *part*.

Proposal to refuse to issue, revoke or impose condition

65.—(1) Where the Director proposes to revoke or to refuse to issue or renew a licence or to impose a condition on an existing licence under this Act, the Director shall serve notice of his proposal, together with written reasons therefor, on the applicant in the case of a proposal to refuse to issue or renew the licence and on the owner and operator in the case of a proposal to revoke or to impose a condition on the licence. 1974, c. 61, s. 8.

Notice

(2) A notice under subsection (1) shall inform the applicant or the owner and operator that he is entitled to a hearing by the Review Board if he mails or delivers,

within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing by the Review Board and he may so require such a hearing.

Powers of Director where no hearing

(3) Where the applicant or the owner and operator do not require a hearing by the Review Board in accordance with subsection (2), the Director may carry out the proposal stated in the notice under subsection (1).

Power of Review Board where hearing

(4) Where an applicant or an owner or operator requires a hearing by the Review Board in accordance with subsection (2), the Review Board shall appoint a time for and shall hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Review Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Review Board may substitute its opinion for that of the Director.

Extension of time for requiring hearing

(5) The Review Board may extend the time for the giving of notice requiring a hearing by an applicant or an owner or operator under this section either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or the owner or operator pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Review Board may give such directions as it considers proper consequent upon the extension.

Continuation of licence pending renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before the expiry of the licence, the owner or operator has applied for renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Review Board has expired and, where a hearing is required, until the Review Board has made its decision. 1972, c. 80, s. 4, *part*.

Parties

66.—(1) The Director, the applicant or the owner or operator who has required the hearing and such other persons as the Review Board may specify are parties to proceedings before the Review Board under this Act.

Notice of hearing

(2) Notice of a hearing under section 65 shall afford the applicant or the owner or operator a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(3) Any party to proceedings under section 65 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Review Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Review Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(5) The oral evidence taken before the Review Board at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(6) The findings of fact of the Review Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1980, c. 484

Only members at hearing to participate in decision

(7) No member of the Review Board shall participate in a decision of the Review Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Review Board shall be given unless all members so present participate in the decision.

Release of documentary evidence

(8) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Review Board within a reasonable time after the matter in issue has been finally determined. 1972, c. 80, s. 4, *part*.

Appeal to court

67.—(1) Any party to the proceedings before the Review Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Record to be filed in court

(2) Where any party appeals from a decision or order of the Review Board, the Review Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Review Board's record, shall constitute the record in the appeal.

Minister entitled to be heard

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Review Board and may exercise all powers of the Review Board to direct the Director to take any action which the Review Board may direct him to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Director or of the Review Board, or the court may refer the matter back to the Review Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1972, c. 80, s. 4, *part*.

Tests permitted

68.—(1) Every owner and operator of a laboratory shall ensure that no tests are performed in the laboratory other than tests authorized by the licence, and no person employed in the laboratory shall knowingly participate in such tests. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 4 (1).

Specimen taking or collecting permitted

(2) Every owner and operator of a specimen collection centre shall ensure that no specimen taking or collecting is carried out in the specimen collection centre other than specimen taking or collecting authorized by the licence, and no person employed in the specimen collection centre shall knowingly participate in such specimen taking or collecting. 1973, c. 130, s. 4 (2).

Advertising

69.—(1) No person shall advertise or cause to be advertised the services of the laboratory, but any person may notify such classes of persons as are specified by the regulations respecting,

(*a*) the name and address of the laboratory;

(*b*) laboratory employees and the tests that are authorized to be performed under the laboratory licence;

(*c*) the laboratory equipment and premises and list of procedures and tariff;

(*d*) information as to new tests provided. 1972, c. 80, s. 4, *part*.

Idem (2) No person shall advertise or cause to be advertised the services of a specimen collection centre, but any person may notify such classes of persons as are specified by the regulations respecting,

(*a*) the name and address of the specimen collection centre;

(*b*) employees of the specimen collection centre and the specimens or class or classes of specimens that are authorized to be taken or collected under the specimen collection centre licence;

(*c*) the equipment, premises, procedures and tariff of the specimen collection centre;

(*d*) information as to new specimen taking or collecting provided. 1973, c. 130, s. 5.

Appointment of inspectors **70.**—(1) The Minister may appoint one or more persons as inspectors for the purposes of sections 59 to 72 and the regulations and such appointments shall be in writing.

Certificate of appointment (2) The Minister shall issue every inspector appointed under subsection (1) a certificate of his appointment and every inspector, in the execution of his duties under this section and the regulations, shall produce his certificate of appointment upon request. 1972, c. 80, s. 4, *part*.

Powers of inspectors (3) An inspector may at all reasonable times inspect the premises, operations, all records and test samples of all laboratories and specimen collection centres to ensure that the provisions of sections 59 to 72 and the regulations are complied with. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 6 (1).

Idem (4) Where the Director has reasonable and probable grounds to believe that any institution, building or place other than a private dwelling is being used as a laboratory or specimen collection centre without being licensed under this Act, the Director may direct an inspector to make an inspection and the inspector at any reasonable time may enter the institution, building or place other than a private dwelling to make an inspection for the purpose of deter-

mining whether or not any person is in contravention of subsection 63 (1) or (3). 1973, c. 130, s. 6 (2).

Idem

(5) Upon an inspection under this section, the inspector may upon giving a receipt therefor remove any material referred to in subsection (3) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected.

Admissibility of copies

(6) Any copy made as provided in subsection (5) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Obstruction

(7) No person shall obstruct the inspector or withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection. 1972, c. 80, s. 4, *part*.

Penalty

71.—(1) Any person who contravenes any provision of sections 59 to 70 or the regulations made under section 72 is guilty of an offence and on conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is $5,000 and not as provided therein. 1972, c. 80, s. 4, *part*.

Regulations

72. The Lieutenant Governor in Council may make regulations,

(*a*) providing for the issuance and renewal of licences and provisional licences and prescribing terms and conditions thereof;

(*b*) prescribing simple laboratory procedures for the purpose of clause 59 (*c*).

(*c*) prescribing classes of tests for the purposes of this Act and the regulations;

(*d*) respecting the officers, staff and employees of laboratories and prescribing their duties, responsibilities and qualifications;

(*e*) respecting the staff and employees of specimen collection centres and respecting the duties, responsibilities and qualifications of the staff and employees of specimen collection centres;

(*f*) prescribing the classes of persons who may perform tests in a laboratory;

(*g*) prescribing the classes of persons who may take or collect specimens in a specimen collection centre;

(*h*) prescribing classes of persons who shall not be owners of laboratories or specimen collection centres or of any interest therein;

(*i*) respecting the management and operation of laboratories and specimen collection centres and requiring laboratories and specimen collection centres to keep such records and make such reports as are prescribed;

(*j*) specifying classes of persons whom laboratories and specimen collection centres may notify respecting their services;

(*k*) prescribing forms and providing for their use;

(*l*) prescribing fees for licences, provisional licences and renewals and for laboratory services performed by the Ministry;

(*m*) exempting laboratories or specimen collection centres or any class of either of them or any class of persons from any provisions of this Act or the regulations;

(*n*) prescribing tests to which this Act does not apply;

(*o*) prescribing other duties and powers of the Director and the Review Board, including the approval of educational qualifications of officers, staff and employees of laboratories and specimen collection centres;

(*p*) instituting a system for the payment by the Province of all or any part of the annual expenditures of laboratories in lieu of amounts payable under the *Health Insurance Act*; R.S.O. 1980, c. 197

(*q*) prescribing fees in respect of classes of tests for examinations and evaluations of proficiency in the performance of tests in laboratories;

(*r*) designating an agency or agencies to carry out examinations and evaluations of proficiency in the performance of tests in laboratories. 1972, c. 80, s. 4, *part*; 1973, c. 130, s. 7; 1974, c. 61, s. 9.

Agreement

73. The Minister may enter into an agreement with an agency or agencies designated in the regulations to provide for the examination and evaluation of the performance of tests in laboratories including the manner and frequency of such examinations and evaluations, the reports thereon and payment therefor. 1974, c. 61, s. 10, *part*.

Committee

74. The Minister may establish a committee of not fewer than five persons for the purpose of recommending to the Minister standards and procedures for the evaluation of proficiency in the performance of tests in laboratories. 1974, c. 61, s. 10, *part*.

Moneys

75. The moneys required for the administration of the program of examining and evaluating the performance of tests in laboratories shall be paid out of the moneys appropriated therefor by the Legislature. 1974, c. 61, s. 10, *part, revised*.

ISOLATION HOSPITALS

Establishment

76.—(1) Any municipality may establish, erect and maintain one or more isolation hospitals for the reception and care of persons suffering from any communicable disease.

Idem

(2) Two or more adjacent municipalities may join in establishing, erecting and maintaining such a hospital.

Debentures

(3) A municipality may borrow money by the issue of debentures for the purposes of this section and it is not necessary to obtain the assent of the electors to any by-law for raising money for the purposes of this section.

When payable

(4) Debentures issued under this section shall be payable within twenty years from the date of the issue thereof.

Where to be established

(5) Any such hospital may be established in a municipality or in one of the municipalities providing for the same or in an adjoining municipality.

(6) The powers conferred by this section are subject to sections 77 to 82. R.S.O. 1970, c. 377, s. 46. Subject to sections 77 to 82

77. No such isolation hospital and, except as provided by the *Sanatoria for Consumptives Act*, no sanatorium, institution or place for the reception, care or treatment of persons suffering from consumption or tuberculosis shall be established or maintained or kept within the limits of any municipality without permission to be given in the manner hereinafter provided. R.S.O. 1970, c. 377, s. 47. Permission for establishment of isolation hospitals and consumption hospitals R.S.O. 1980, c. 463

78.—(1) Every municipal corporation and every person desiring to establish, maintain or keep any such isolation hospital, sanatorium, institution or place in a municipality shall make application in writing to the local board of the municipality for permission to do so. Application to local board

(2) The local board shall give notice of the application and of the meeting at which the application will be considered by advertisement once a week for two successive weeks in a newspaper published in the municipality or, if there is no such newspaper, in a newspaper published in an adjoining municipality. Notice of meeting

(3) The local board shall take such application into consideration at its next general meeting after the last publication of such notice or at a special meeting to be called for the purpose within one month after that date. Consideration of application

(4) The local board shall hear the applicant for such permission in person or by counsel, and shall hear any person opposed to the granting of such permission, and shall within one month thereafter determine by resolution of the board whether or not the application will be granted. Hearing and decision

(5) If the local board determines not to grant permission, notice in writing of its decision shall forthwith be given to the applicant by registered letter, and the applicant may appeal from such decision to a board of appeal to be composed of the head of the municipality, the sheriff of the county or district in which the municipality is situate and the Deputy Minister. Refusal of permission and appeal

(6) The appeal shall be by notice in writing addressed to the Deputy Minister and sent by registered mail to him within seven days after the receipt of notice of the decision of the local board. Notice of appeal

(7) The Deputy Minister shall appoint a time and place for the consideration of the appeal, and at least seven days Notice of hearing of appeal

notice of the time and place of hearing the appeal shall be given by registered letter addressed to the secretary of the local board and to the applicant, and by advertisement in a newspaper published in the municipality in which it is sought to establish such hospital, sanatorium, institution or place of reception, or, if there is no such newspaper, in a newspaper published in the county or district town of the county or district in which such municipality is situate.

Hearing of appeal

(8) The board of appeal shall hold a sitting at such time and place and shall hear what is alleged for and against such appeal on behalf of the applicant and the local board or any ratepayer of the municipality who objects to the granting of such permission.

View

(9) The board of appeal may adjourn the proceedings for the purpose of visiting any building or proposed site and determining upon its suitability or procuring such further information as the board considers necessary.

Decision of board of appeal

(10) The decision of the board of appeal or a majority of its members shall be given in writing and is final.

Fees of board of appeal

(11) Each of the members of the board of appeal is entitled to a fee of $10 per day for each day during which he is necessarily engaged in connection with the appeal and reasonable and necessary expenses, and the same and any other costs and expenses incurred in hearing the appeal are payable by the appellant upon the written order of the Minister to the persons entitled thereto.

Non-application of sections

(12) Nothing in this section or in section 77 applies to any public general hospital in which persons suffering from other diseases as well as persons suffering from consumption or tuberculosis are received and treated. R.S.O. 1970, c. 377, s. 48.

Offence

79. Every person who erects, establishes or maintains any such isolation hospital, sanitorium, institution or place, or who takes part in the superintendence or management thereof, until permission has been given as provided by section 78, is guilty of an offence and on conviction is liable to a fine of not more than $25 for every day on which the offence is continued. R.S.O. 1970, c. 377, s. 49.

Plans to be approved by Ministry

80.—(1) No isolation hospital shall be established until the plans and the proposed equipment thereof have been submitted to and approved by the Ministry.

Alterations, etc.

(2) Every municipality establishing an isolation hospital shall from time to time make such alterations therein and such changes or improvement in the equipment thereof as are directed by the Ministry. R.S.O. 1970, c. 377, s. 50; 1972, c. 1, s. 1.

Maintenance grants for isolation hospitals

81. The Minister may, out of the moneys that are appropriated by the Legislature for the purpose and subject to the regulations, pay grants to municipalities toward the cost of maintenance of the isolation hospitals referred to in section 76. R.S.O. 1970, c. 377, s. 51.

Control of isolation hospital

82.—(1) Subject to the regulations, the local board of the municipality that has established an isolation hospital has the management and control of it and of the conduct of the physicians, nurses, attendants and patients.

Idem

(2) Notwithstanding subsection (1), an agreement may be entered into between the local board of the municipality that has established an isolation hospital, the council of the municipality and the board of trustees of a public hospital, providing for the management and control of the isolation hospital and of the conduct of the physicians, nurses, attendants and patients by the board of trustees of the public hospital. R.S.O. 1970, c. 377, s. 52.

EMERGENCY HOSPITALS

Temporary emergency hospitals

83. Where a communicable disease to which this section is made applicable by the regulations becomes prevalent in a municipality and the municipality has not already provided proper hospital accommodation for such cases, the local board shall immediately provide, at the cost of the municipality, such a temporary hospital, hospital tent or other place or places of reception for the sick and infected as may be considered best for their accommodation and the safety of the inhabitants, and for that purpose may,

(*a*) erect such hospital, hospital tent or place of reception;

(*b*) contract for the use of any existing hospital, hospital tent or place of reception; or

(*c*) enter into an agreement with any person having the management of any such hospital, subject to the approval of the medical officer of health of the local municipality in which the hospital is situate, for the reception and care of persons

suffering from the communicable disease, and for the payment of such remuneration therefor as is agreed upon. R.S.O. 1970, c. 377, s. 53.

ACQUIRING LAND

Occupying land in case of emergency

84.—(1) Where an outbreak of any of the diseases to which section 83 applies occurs or is apprehended, the local board may enter upon and take and use for the purposes mentioned in that section any land or unoccupied building without prior agreement with its owner and without his consent, and may retain it for such period as appears to the board to be necessary.

Notice to clerk

(2) Written notice in the form set out in Schedule A shall, within five days after the taking or obtaining possession, be given by the board to the clerk of the municipality wherein the land or unoccupied building is situate, and such notice shall be given whether possession is taken or obtained with the consent of the owner or otherwise.

Notice to owner

(3) Where possession is taken without the consent of the owner, the board shall, within five days after taking possession, give the like notice to the owner.

Where owner or his address unknown

(4) If the owner is not known or is not resident in Ontario or if his residence is unknown to the board, the board shall cause the notice to be published in two successive issues of a local newspaper having circulation in the municipality where the property is situate, and shall send by registered mail to the last known address, if any, of the owner a copy of the notice, and such publication is sufficient notice to the owner.

Compensation

(5) The owner is entitled to compensation from the municipality wherein the land or building is situate for the use and occupation thereof, including any damages arising from such use and occupation, such compensation to be agreed upon between the council of the municipality and the owner and, in case they do not agree, the judge of the county or district court of the county or district in which the property is situate shall summarily determine the amount of the compensation and the terms of payment in such manner and after giving such notice as he sees fit. R.S.O. 1970, c. 377, s. 54.

Order for possession

85. Where any resistance or forcible opposition is offered or apprehended to possession being taken of the land or building, the judge of the county or district court may,

without notice to any person, issue his warrant to the sheriff of the county or district, or to any other person as he considers most suitable, requiring him to put and maintain the board, its agents or servants in possession, and to put down such resistance or opposition, which the sheriff or other person, taking with him sufficient assistance, shall accordingly do. R.S.O. 1970, c. 377, s. 55.

MEDICAL CARE OF INDIGENTS

Municipality to provide for medical attendance for indigent persons

86.—(1) Every municipality shall enter into an agreement with the medical officer of health or some other legally qualified medical practitioner resident in the municipality or in a municipality adjacent thereto for his medical attendance upon and care of persons suffering from the result of injury or disease who, in the opinion of the head of the municipality or of its welfare administrator, if any, are unable through poverty to pay for the necessary attendance and who are not cared for in a public or private hospital.

M.O.H. need not act unless agreement made

(2) This section does not impose any duty on the medical officer of health in respect of such cases unless an agreement has been entered into with him under subsection (1).

In absence of agreement M.O.H. to be deemed indigent M.O.H.

(3) Failing the making of any other agreement, the medical officer of health shall be deemed to be indigent medical officer of health for the municipality and shall be remunerated for his service as indigent medical officer, according to subsection (4).

Agreement to provide for remuneration

(4) Every such agreement shall provide for fair and reasonable remuneration for the service rendered. R.S.O. 1970, c. 377, s. 56.

Disputes as to remuneration of M.O.H. application to county judge

87.—(1) Where a medical officer of health claims that the salary paid to him by a municipality or the remuneration provided for under section 86 is not fair and reasonable, and gives notice of such claim in writing, signed by him, to the clerk of the municipality, and the council of the municipality neglects to comply with such demand, or directs the serving upon the medical officer of health of a notice disputing the claim, the medical officer of health, after the expiration of ten days from the receipt of the notice by the clerk, may apply in a summary manner to the judge of the county or district court of the county or district in which the municipality lies for an order allowing his claim and fixing the amount

payable to him as salary under section 47 or as remuneration under section 86, and upon such application the judge shall hear the parties and their witnesses and shall make such order as he considers just, and in and by such order shall settle and determine the salary properly payable to such medical officer of health, and a fair and reasonable remuneration under section 86.

Time for making application

(2) If such application is not made by the medical officer of health within thirty days after receiving notice from the municipality disputing his claim, he shall be deemed to have abandoned the claim.

Powers of judge

(3) The judge, upon the application, shall take into consideration all the circumstances of the case and, among other matters, the physical extent, population and assessment of the municipality.

Application of R.S.O. 1980, c. 222

(4) The *Judges' Orders Enforcement Act* applies to every application and order made under this section. R.S.O. 1970, c. 377, s. 57.

USE OF DRUGS

Interpretation

88.—(1) In this section,

(*a*) "designated drug" means a drug,

(i) for which a standard has been prescribed under legislation applicable to the advertising and sale of drugs,

(ii) for which a standard is contained in a publication mentioned in Schedule C, or

(iii) designated by the regulations;

(*b*) "designated human ailment" means a human ailment designated by the regulations;

(*c*) "drug" means a substance or mixture of substances for the treatment of human ailments.

Where section not to apply

(2) This section does not apply to,

(*a*) a legally qualified medical practitioner;

(*b*) a person engaged in *bona fide* research, experimentation or the treatment of patients or other persons if carried on under the supervision of a

legally qualified medical practitioner in a hospital or health institution established, approved or licensed under any Act, a hospital operated and maintained by Her Majesty in right of Canada or an institution operated by or affiliated with a university.

Use of certain drugs prohibited

(3) Except as provided by the regulations, no person shall use or permit to be used any drug other than a designated drug in the treatment of a designated human ailment.

Appointment of inspectors

(4) The Minister, for the purpose of this section, may appoint any person on the staff of the Ministry or any other person as an inspector for such time as the Minister may designate.

Powers of inspectors

(5) An inspector appointed under subsection (4) may enter any place in which he believes on reasonable grounds that a drug is being used contrary to subsection (3), and he may search for and examine any such drug and take and remove it or a sample thereof.

Assistance to inspectors

(6) The owner or person in charge of the place entered by an inspector appointed under subsection (4) and every person therein shall give the inspector all reasonable assistance and furnish him with such information as he may reasonably request.

Obstruction of inspectors

(7) No person shall obstruct an inspector appointed under subsection (4) in the performance of his duties.

Offences

(8) Any person who contravenes any provision of this section is guilty of an offence and, for a first offence, on conviction is liable to a fine of not less than $200 and not more than $500 and, for a subsequent offence, on conviction is liable to a fine of not less than $500 and not more than $2,500.

Onus of proof

(9) In a prosecution for the use of a drug in contravention of subsection (3), the burden of proof that a drug is a designated drug is upon the person charged.

Regulations

(10) The Lieutenant Governor in Council may make regulations,

(*a*) designating human ailments and drugs for the purposes of this section;

(*b*) prescribing terms and conditions under which a drug other than a designated drug may be used in the treatment of a designated human ailment;

(*c*) adding any publication or deleting any publication from the list of publications in Schedule C.

No additional rights to treat human ailments

(11) Nothing in this section shall be deemed to confer upon any person any rights in the treatment of human ailments that he does not otherwise possess. R.S.O. 1970, c. 377, s. 58; 1972, c. 1, s. 1.

CANCER SURVEYS

Periodic cancer surveys

89.—(1) The Minister may cause to be conducted periodic surveys of the incidence and prevalence of cancer in Ontario.

Reports of cancer cases

(2) For the purpose of the surveys mentioned in subsection (1),

(*a*) every legally qualified medical practitioner; and

(*b*) every superintendent or director of,

(i) a hospital, sanatorium or other institution designated by the regulations, or

(ii) a medical clinic or medical laboratory,

shall report every case of cancer diagnosed, treated or observed by him in such manner and at such times as are prescribed by the regulations. R.S.O. 1970, c. 377, s. 59.

COMMUNICABLE DISEASES

Supply of insulin, etc., to indigents

90.—(1) The Minister may supply, or contribute towards the cost of supplying, free of charge to indigent persons insulin or any designated substance for the control or treatment of diabetes upon such terms and conditions as the regulations prescribe.

Municipal contribution to cost

(2) The regulations may prescribe that the municipality in which the indigent person resides shall contribute a part of the cost, not exceeding 25 per cent thereof, of supplying insulin or any substance for the control or treatment of diabetes designated by the regulations. R.S.O. 1970, c. 377, s. 60.

Contributions toward cost of treatment of poliomyelitis

91. The Minister, out of such moneys as are appropriated by the Legislature therefor, may make contributions to institutions designated by the regulations toward the cost of the maintenance, treatment and special treatment of

persons in such institutions who are suffering from poliomyelitis or from impairment of muscular function as a result of having been infected with poliomyelitis, in such amounts, in such manner and at such times as the regulations prescribe. R.S.O. 1970, c. 377, s. 61.

Notice by householder

92.—(1) Whenever any householder knows or has reason to suspect that any person in his family or household or boarding or lodging with him has any communicable disease, he shall, within twelve hours, give notice thereof to the secretary of the local board or to the medical officer of health.

How given

(2) The notice may be given to the secretary or to the medical officer of health at his office, or by letter addressed to either of them and mailed within the time above specified, and the secretary of the local board shall forthwith transmit to the medical officer of health notice of each case of communicable disease reported to him.

Notice of communicable disease to be included in weekly report

(3) Every such notice filed with the medical officer of health shall be transmitted forthwith by him to the secretary of the local board and shall be included in the weekly report required to be sent to the Ministry under section 24. R.S.O. 1970, c. 377, s. 62; 1972, c. 1, s. 1.

Removal of person or clothing prohibited

93.—(1) No householder in whose dwelling any communicable disease occurs shall permit any person suffering from or exposed to such disease to leave, or any clothing or other property to be removed from, his house without the consent of the medical officer of health, who may forbid such removal or prescribe the conditions thereof.

Milk containers

(2) Milk bottles and other containers used in the delivery of milk and that may be used again for the same or any other purpose shall not be returned from or taken away from any premises under quarantine for any communicable disease until the quarantine has been raised, and they shall then be removed in such manner as the medical officer of health directs and, before being refilled or used for any other purpose, they shall be disinfected by live steam in such manner as the regulations require.

Who to be deemed exposed to disease

(3) Every person in a house when a communicable disease exists therein, and every person who during the period of quarantine enters such house, shall be deemed to be exposed to the disease.

Communicable diseases of the eyes

(4) It is the duty of every physician, medical officer of health, superintendent of a hospital, nurse, midwife and

every person in charge of a maternity hospital, every householder, and every person in charge of a child, to see that such requirements as are prescribed by this Act or by the regulations are duly complied with in respect of ophthalmia neonatorum, trachoma, inflammation of the eyes of the newborn, or other communicable diseases of the eyes.

Maternity cases, duty as to reporting death of mother

(5) It is the duty of every physician, medical officer of health, superintendent of a hospital, nurse, midwife or other person in charge of a maternity case in which the death of a mother takes place from causes directly or indirectly associated with pregnancy or parturition forthwith to report such death and the causes thereof according to the regulations. R.S.O. 1970, c. 377, s. 63.

Report by physician

94.—(1) Whenever any legally qualified medical practitioner knows, or has reason to suspect, that any person whom he is called upon to visit is infected with any communicable disease, he shall within twelve hours give notice thereof to the medical officer of health of the municipality in which the diseased person is.

Superintendents of hospitals, etc.

(2) This section applies to the medical superintendent or person in charge of any general or other hospital in which there is known to him to be a patient suffering from any communicable disease.

Drugless practitioners R.S.O. 1980, c. 127

(3) Subsection (1) applies to any person registered and practising as a drugless practitioner under the *Drugless Practitioners Act*. R.S.O. 1970, c. 377, s. 64.

Precautions against spread of infection

95.—(1) Where a communicable disease is found or suspected to exist in a municipality, the medical officer of health and local board shall use all possible care to prevent the spread of infection or contagion by such means as in their judgment is most effective for the public safety.

Closing schools, churches, etc.

(2) The medical officer of health or local board, when it is considered necessary to prevent the occurrence or spread of a communicable disease, may direct that any school or seminary of learning, or any church or public hall or other place used for public gatherings or entertainment in the municipality, be closed and may prohibit all public assemblies in the municipality, and no such school, seminary, church, hall or public place shall be kept open after such direction for the admission of the public, nor be reopened without the permission of the medical officer of health. R.S.O. 1970, c. 377, s. 65.

Smallpox

96. Subject to the regulations, where smallpox is found or suspected to exist in a municipality or where there is a danger of the spread of smallpox from another jurisdiction or where persons in a municipality have been exposed to smallpox, the medical officer of health and the local board may require the vaccination, revaccination or quarantine of such persons or classes of persons as may be designated by the regulations. R.S.O. 1970, c. 377, s. 66.

Application of s. 96 to unorganized territory

97. The Lieutenant Governor in Council may designate that section 96 shall apply with necessary modifications to territory without municipal organization in such manner and under such conditions as may be prescribed by the regulations. R.S.O. 1970, c. 377, s. 67.

Isolation of patient

98. Where by the regulations this section is made applicable in respect of a communicable disease, the medical officer of health or the local board shall, as required by the regulations, isolate persons having such disease, persons who are or may be contacts therewith and persons who are or may be carriers thereof, and shall forthwith and as provided by the regulations quarantine the house or premises in which such disease exists or in which such persons are isolated. R.S.O. 1970, c. 377, s. 68.

Isolation of infected persons

99.—(1) If any person in a municipality is infected or has recently been infected with, or exposed to, a communicable disease to which this section is made applicable by the regulations, the medical officer of health or local board shall make effective provision for the public safety by removing such person to a separate house, or by otherwise isolating him, and by providing medical attendance, medicine, nurses and other assistance and necessaries for him.

Recovery of expenses

(2) The municipality is entitled to recover from such person the amount expended in providing such medical attendance, medicine, nurses and other assistance and necessaries for him, but not the expenditure incurred in providing a separate house or in otherwise isolating him. R.S.O. 1970, c. 377, s. 69.

Carrier of germs

100.—(1) The medical officer of health shall take such steps as are necessary for the public safety with respect to any person in the municipality who in the opinion of the medical officer is a carrier of the germs of a communicable disease to which this section is made applicable by the regulations.

Examination

(2) The medical officer of health may require any person in the municipality whom he believes to be such a carrier to submit to such clinical or laboratory examination or investigation as may be necessary to determine whether such person is a carrier.

Orders and directions

(3) The medical officer of health may give such orders or directions to any such carrier as he considers necessary to prevent the spread of the disease, and may direct such person to be isolated in any premises or locality, and may prohibit such person from residing in any premises or engaging in any work that in the opinion of the medical officer is likely to cause the spread of the disease, and may do all such acts as are necessary to enforce the carrying out of any such order, direction or prohibition. R.S.O. 1970, c. 377, s. 70 (1-3).

Recovery of expense incurred through neglect or refusal to carry out Act

101. Where, owing to the refusal or neglect of the medical officer of health, the local board or the municipality, a communicable disease is brought into another municipality which incurs expense in preventing the spread of such communicable disease, the municipality in default shall pay to the municipality incurring such expense the whole amount thereof, and it is recoverable as a debt in any court of competent jurisdiction. R.S.O. 1970, c. 377, s. 71.

Removal of patients

102. No person suffering from a communicable disease to which this section is made applicable by the regulations shall be removed at any time except by permission and under direction of the medical officer of health, nor shall any occupant of any house in which there exists any such communicable disease change his residence to any other place without the consent of the medical officer of health or without complying with such conditions as he prescribes. R.S.O. 1970, c. 377, s. 72.

Power to enter premises

103. The medical officer of health, or a legally qualified medical practitioner appointed by him in writing for that purpose, may enter in and upon any house, outhouse or premises, in the day time, for the purpose of making inquiry and examination with respect to the state of health of any person therein, and cause any person found therein who is infected with a communicable disease to be removed to a hospital or some other proper place. R.S.O. 1970, c. 377, s. 73.

Entering and disinfecting public conveyances

104.—(1) Where there is reason to suspect that a person suffering from a communicable disease to which this section is made applicable by the regulations is in or upon any railway car, street railway car, steamboat, vessel or other conveyance, the medical officer of health or public health inspector of the municipality, or any member of the local board, may enter such conveyance and cause such person to be removed therefrom, and may detain the conveyance until it is properly disinfected, or such officer or member may, if he thinks fit, remain on or in or re-enter and remain on or in such conveyance, with any assistance he may require, for the purpose of disinfecting it, and his authority continues in respect of such person and conveyance notwithstanding that the conveyance is taken into another municipality.

Payment by owner of conveyance

(2) The expense incurred for medical attendance, care, nursing, maintenance and all costs for disinfection shall be paid by the owner of the conveyance in which such person is found.

Authority given by Ministry

(3) Any legally qualified medical practitioner or public health inspector authorized by the Ministry has the same authority as a medical officer of health under this section. R.S.O. 1970, c. 377, s. 74; 1972, c. 1, s. 1.

Removal of persons from unsanitary dwellings

105. Where a communicable disease is reported or discovered in a dwelling house or outhouse occupied as a dwelling and such house or outhouse is in a filthy and neglected state, the medical officer of health may, at the expense of the municipality, compel the inhabitants of the dwelling house or outhouse to move therefrom, and may place them in sheds or tents or other proper shelter in some more suitable situation until measures can be taken under the direction and at the expense of the municipality for the immediate cleansing, ventilation, purification and disinfection of such dwelling house or outhouse. R.S.O. 1970, c. 377, s. 75.

Patients and nurses, precautions as to disinfection

106. No person recovering from a communicable disease to which this section is made applicable by the regulations, and no nurse who has been in attendance on any such person, shall leave the premises or expose himself in any public place, street, shop, inn or public conveyance until he has received from the medical officer of health a certificate that in his opinion such person or nurse has taken such precautions as to his person, clothing and all other things that he proposes to bring from the premises as are necessary to insure the immunity from infection of other persons with whom such person or nurse may come in contact. R.S.O. 1970, c. 377, s. 76.

Measures prescribed by Ministry

107. Every such person and nurse shall adopt for the disinfection and disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things that have been exposed to infection, such measures as are prescribed by the regulations or by the medical officer of health. R.S.O. 1970, c. 377, s. 77.

Sanitary precautions before mingling with public

108. No person suffering from or having recently recovered from a communicable disease to which this section is made applicable by the regulations shall mingle with the general public, and no person having access to any such person, except the attending physician and clergyman, shall do so, until such sanitary precautions as are prescribed by the medical officer of health have been complied with. R.S.O. 1970, c. 377, s. 78.

Notice to be given before using public conveyance

109.—(1) No person suffering from or having recently recovered from a communicable disease to which this section is made applicable by the regulations shall expose himself, nor shall any person expose any one under his charge who is so suffering from any such disease in a railway car, street railway car, steamboat, vessel or other conveyance, without having previously notified the owner or person in charge of the conveyance of the fact of his having such disease.

Conveyance to be disinfected

(2) The owner or person in charge of any such conveyance shall not, after the entry of any infected person into his conveyance, allow any other person to enter it without having sufficiently disinfected it under the direction of the medical officer of health or public health inspector. R.S.O. 1970, c. 377, s. 79.

Bedding, clothing, etc.

110. No person shall give, lend, transmit, sell or expose any bedding, clothing or other article likely to convey a communicable disease without having first taken such precautions as the medical officer of health directs for removing all danger of communicating such disease to others. R.S.O. 1970, c. 377, s. 80.

Disinfection of houses, etc.

111. No person shall let or hire, or permit to be occupied, any house or room in a house in which a communicable disease has recently existed without having caused the house and premises used in connection therewith to be disinfected to the satisfaction of the medical officer of health, and, for the purpose of this section, the keeper of an inn or house for the reception of lodgers shall be deemed to let for hire part of a house to any person admitted as a guest into such inn or house. R.S.O. 1970, c. 377, s. 81.

False statements of persons renting or showing houses

112. No person letting for hire, or showing for the purpose of letting for hire, any house or part of a house, on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there previously having been therein any person, animal or thing suffering from or liable to be infected by a communicable disease, shall knowingly make a false answer to such question. R.S.O. 1970, c. 377, s. 82.

Transportation of infected persons

113.—(1) No common carrier shall knowingly accept for transportation or carry in Ontario, except under and subject to the regulations, any person suffering from a communicable disease to which this section is made applicable by the regulations, or any infected article or articles of clothing, bedding or other property whatsoever.

Corpses

(2) No carrier shall knowingly accept for transportation or carry in Ontario the body of a person who has died of a communicable disease, except under and subject to the regulations.

Penalty

(3) Every person contravening the provisions of this section is guilty of an offence and on conviction is liable to a fine of $100. R.S.O. 1970, c. 377, s. 83.

School attendance from houses in which communicable disease exists

114.—(1) Whenever a communicable disease exists in a house or household in which there is a person who is a student or pupil in, or a teacher or other person employed in any capacity in or about a university, college, school or other institution of learning, the householder shall, within twelve hours after the time such disease is known to exist, notify the principal, superintendent, head teacher or other person in charge of such institution, and also the medical officer of health, of the existence of such disease, and the person suffering therefrom shall not attend or be employed at such institution until a certificate has been obtained from the medical officer of health that he may safely do so.

Duty of local board and teacher

(2) Whenever a local board, or any of its officers or members, are aware of the existence in a house of a communicable disease, they shall at once notify the principal, superintendent, head teacher or other person in charge of any university, college, school or other institution of learning at which any member of the household is in attendance, either as a student or pupil, or in or about which he is employed as a teacher or in any other capacity, and none of such last-mentioned persons shall, after such notice, be permitted to attend, or be employed or be in or about, such institution until the certificate mentioned in subsection (1) is obtained and presented.

Teacher to give notice of cases of communicable disease

(3) Whenever a professor, lecturer, instructor or teacher in any such institution of learning has reason to suspect that any other professor, lecturer, instructor or teacher in, or any student or pupil of, or any person employed in or about, such institution is suffering from a communicable disease or that there exists in a household of which he is a member any communicable disease, such first-mentioned person shall notify the medical officer of health thereof and shall not permit the attendance of the person suffering from such disease, if under his direction or control, until the medical officer of health certifies that such attendance may be safely allowed.

Pupil not to attend within minimum time

(4) No student or pupil having suffered from a communicable disease shall be allowed to attend any such institution of learning within the minimum period prescribed by the regulations.

Boarding schools

(5) Whenever a communicable disease exists in a boarding school or other institution in which pupils are received for tuition and boarded or lodged, the head of the institution or the person in charge thereof shall immediately isolate the person suffering from such disease and any person in attendance upon him, and, within twelve hours after the disease is known to exist, shall notify the medical officer of health and shall not permit the person so suffering or any person in attendance upon him to mingle with the other pupils or inmates of the institution until the medical officer of health has certified that he may safely do so. R.S.O. 1970, c. 377, s. 84.

NUISANCES

Nuisances, what to be deemed

115. Any condition existing in a locality that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of disease shall be deemed a nuisance within the meaning of this Act. R.S.O. 1970, c. 377, s. 85.

Particular nuisances

116. Without restricting the general application of section 115 and for greater particularity,

(*a*) any premises or part thereof so constructed or in such a state as to be injurious or dangerous to health;

(*b*) any street, pool, ditch, gutter, water-course, sink, cistern, water or earth closet, privy, urinal, cesspool, drain, dung pit or ash pit, so foul or in such a state or so situated as to be injurious or dangerous to health;

(*c*) any well, spring or other water supply that is injurious or dangerous to health;

(*d*) any stable or other building in which animals are kept in such a manner or in such numbers as to be injurious or dangerous to health;

(*e*) any accumulation or deposit of refuse wherever situate that is injurious or dangerous to health;

(*f*) any deposit of offensive matter, refuse, offal or manure contained in uncovered trucks or wagons at a station or siding or elsewhere so as to be injurious or dangerous to health;

(*g*) any work, manufactory, trade or business so situated as to be injurious or dangerous to health;

(*h*) any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates or in which insufficient air space is allowed for each inmate to comply with the regulations;

(*i*) any schoolhouse, public or private, factory, shop or other building that is not in a clean state or free from effluvia arising from a drain, privy, water or earth closet, urinal or other nuisance, or that is not ventilated in such a manner as to render harmless so far as practicable any gases, vapours, dust or other impurities generated therein that are injurious or dangerous to health, or that is so overcrowded as to be injurious or dangerous to the health of those employed or being therein;

(*j*) any fireplace or furnace, the fires of which do not, so far as practicable, consume the smoke arising from the combustible matter used therein for working engines or used in a mill, factory, dye-house, brewery, bakehouse or gas works, or in any manufacturing or trade process whatever;

(*k*) any chimney emitting smoke in such quantity as to be injurious or dangerous to health; and

(*l*) any burial ground, cemetery or other place of sepulture so located or so crowded or otherwise so arranged or managed as to be offensive or injurious or dangerous to health,

shall be deemed nuisances within the meaning of this Act. R.S.O. 1970, c. 377, s. 86.

Inspection of premises

117.—(1) The medical officer of health of a municipality or any inspector or other person in the employ of the local board acting under his instructions may enter any premises in the municipality, and an inspector appointed under section 3 may enter any premises, at all reasonable times and inspect and examine the premises for the purpose of carrying out this Act and may take such action as he considers necessary for carrying it out including, where he finds that a condition exists in or about the premises that,

(*a*) is dangerous or is likely to become dangerous to health or safety; or

(*b*) hinders or is likely to hinder the prevention, mitigation or suppression of disease,

the making of an order that the premises be closed and remain closed until the condition no longer exists in or about the premises, and any person in charge of the premises for the time being shall render such assistance as is necessary to make such entry, inspection and examination.

Form of order closing premises

(2) An order closing premises under subsection (1),

(*a*) shall be in writing and shall include written reasons for the order; and

(*b*) may be directed to the owner or a person in charge of the premises.

Revocation of order

(3) The person who has issued an order closing premises pursuant to subsection (1) may by a further order revoke the order and in such case shall serve or cause to be served a copy of the order on the person to whom the order closing the premises was directed. 1974, c. 61, s. 11, *part*.

Interpretation R.S.O. 1980, c. 20

118.—(1) In this section and in sections 119 and 120, "Board" means the Health Facilities Appeal Board under the *Ambulance Act*.

Notice

(2) An order closing premises referred to in subsection 117 (2) shall inform the person to whom it is directed that the owner or the person in charge of the premises is entitled to a hearing by the Board if he mails or delivers to the person who made the order and to the Board, within fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Effect of order

(3) Notwithstanding that a hearing is required in respect of an order closing premises, the order is effective at and

from the time it is served upon the person to whom it is directed and is further effective until revoked or as confirmed or varied or until rescinded as provided by subsection (4) and such person shall comply with the order immediately.

Powers of Board

(4) Where the owner or the person in charge of the premises requires a hearing by the Board in accordance with subsection (2), the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its finding for that of the person who made the order closing the premises. 1974, c. 61, s. 11, *part*.

Time for hearing

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just. 1974, c. 87, s. 4.

Extension of time for requiring hearing

(6) The Board may extend the time for the giving of notice requiring a hearing by the owner or a person in charge of the premises under this section either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the owner or a person in charge of the premises pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension. 1974, c. 61, s. 11, *part*.

Parties

119.—(1) The person who has made the order closing the premises pursuant to section 117, the owner or person in charge of the premises who has required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this Act.

Notice of hearing

(2) Notice of a hearing under section 118 shall afford the owner or person in charge of the premises a reasonable opportunity to show before the hearing that the condition referred to in section 117 does not exist or no longer exists in or about the premises.

Examination of documentary evidence

(3) Any party to proceedings under section 118 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or

consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980, c. 484

Only members at hearing to participate in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence

(8) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. 1974, c. 61, s. 11, *part*.

Appeal to court

120.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Record to be filed in court

(2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Minister entitled to be heard

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order closing

the premises and to substitute its finding as to the condition of the premises for that of the person who made the order closing the premises as the court considers proper and for such purposes the court may substitute its opinion for that of the person who made the order closing the premises or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1974, c. 61, s. 11, *part*.

Care of aged and infirm persons

121. Where a medical officer of health, inspector or other person in making an inspection or examination under section 117 finds that any premises are used for the accommodation of aged or infirm persons, or children between the ages of three years and sixteen years, for gain or reward, he may give such orders or directions as, in his opinion, are necessary to ensure that such persons receive proper care and treatment and, in the event that his orders and directions are not carried out, he may order that the premises cease to be used for such accommodation. R.S.O. 1970, c. 377, s. 88.

Duty of medical health officer

122.—(1) Every medical officer of health shall ensure that the municipality or location for which he is appointed is regularly inspected in order to prevent nuisances or to abate any existing nuisance.

Order for cleansing

(2) If upon such examination he finds any premises in a filthy or unclean state or that any matter or thing is there that, in his opinion, may endanger the public health, he may order the owner or occupant of the premises to cleanse the premises and to remove or destroy what is so found therein. R.S.O. 1970, c. 377, s. 89.

Where owner unknown or non-resident

123. Where the owner of any premises wherein a nuisance exists is unknown or does not reside in the municipality and the premises are unoccupied or the occupant is unable to remove the nuisance, the medical officer of health or the local board may, without previous notice, immediately cause the nuisance to be abated. R.S.O. 1970, c. 377, s. 90.

Disposition of articles removed

124. Where, under this Act, the regulations or a municipal by-law, a local board or a medical officer of health or public health inspector removes anything that is likely to be injurious to or to become or cause or is a nuisance, such thing shall be subject to the disposition of the local board or, if the officer is acting under a by-law of a

municipal council, is subject to the disposition of the council, and the owner of such thing has no claim in respect thereof. R.S.O. 1970, c. 377, s. 91.

Service of notice requiring abatement of nuisance

125.—(1) Wherever the local board or medical officer of health is satisfied of the existence of a nuisance, the medical officer of health shall serve a notice on the person by whose act, default or sufferance the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the premises on which the nuisance exists or from which it arises, requiring him to abate it within a time to be specified in the notice and to execute such works and do such things as may be necessary for that purpose.

Service on owner when required

(2) Where the nuisance arises from the want or the defective construction of a structural convenience or where there is no occupier of the premises, notice shall be served on the owner.

Where owner and occupant not in fault

(3) Where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default of the owner or occupier of the premises and it is therefore improper that the owner or occupier should be required to abate it, the local board shall abate the nuisance at the expense of the municipality. R.S.O. 1970, c. 377, s. 92.

Where cause of nuisance out of municipality

126. Where a nuisance appears to be wholly or partially caused by some act or default committed or taking place outside the municipality, the local board of the municipality affected shall cause an inspection to be made and, when necessary, shall take or cause to be taken against the person by whose act or default the nuisance is caused in whole or in part any proceedings authorized by this Act in relation to nuisances with the same incidents and consequences as if such act or default were committed or took place wholly within its jurisdiction. R.S.O. 1970, c. 377, s. 93.

Where consideration of difficulty involved

127.—(1) If, on investigation by the local board, a nuisance is found to exist and if, after the board has required its removal or abatement within a specified time, the board finds that default in removal or abatement has been made and the case appears to the local board to involve the expenditure or loss of a considerable sum of money or serious interference with a trade or industry or other considerations of difficulty, the Ministry at the request of the local board may investigate and report upon the case. R.S.O. 1970, c. 377, s. 94 (1); 1972, c. 1, s. 1.

Application to judge of Supreme Court

(2) If the report of the Ministry recommends the removal or abatement of the nuisance, the local board or any ratepayer residing in the municipality, or within 1.6 kilometres thereof, may apply to a judge of the Supreme Court for an order for the removal or abatement of the nuisance, and to restrain the proprietors of any such industry from carrying on the same until the nuisance has been abated to the satisfaction of the Ministry, and the judge may make such order upon the report of the Ministry or upon such further evidence as he considers meet. R.S.O. 1970, c. 377, s. 94 (2); 1972, c. 1, s. 1; 1978, c. 87, s. 20 (1).

Application of R.S.O. 1980, c. 222

(3) The *Judges' Orders Enforcement Act* applies to every order made by a judge under this section. R.S.O. 1970, c. 377, s. 94 (3).

Where owner or occupier neglects to abate

128.—(1) Where the owner or occupier of any premises in which a nuisance exists fails, after due notice, to abate it, the medical officer of health or public health inspector may enter the premises and take such steps as may be necessary to abate it.

Recovery of expenses

(2) All reasonable costs and expenses incurred in abating a nuisance shall be deemed to be money paid for the use and at the request of the person by whose act, default or sufferance the nuisance was caused, and are recoverable from both the owner and the occupier for the time being of the premises.

Collection of expenses as taxes

(3) If the costs and expenses incurred in abating the nuisance are not paid by the owner or occupier within one month after a demand of payment, a statement of the amount of the costs and expenses and of the person by whom and the premises in respect of which they are payable shall be delivered to the clerk of the municipality who shall insert the amount in the collector's roll, and may be collected in like manner as municipal taxes.

Occupier's right to deduct payment from rent

(4) The occupier for the time being of the premises may deduct any money recovered or collected from him that, as between him and the owner, the latter ought to pay out of the rent then due or from time to time becoming due in respect of the premises.

Limit of amount recoverable from occupier

(5) An occupier shall not be required to pay any further sum than the amount of rent for the time being due from him or that, after demand of such costs or expenses and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by the occupier unless he refuses truly to disclose the amount of his rent and the name

and address of the person to whom it is payable, and the burden of proof that the sum demanded from the occupier is greater than the rent due by him at the time of such notice, or that has since accrued, is on the occupier. R.S.O. 1970, c. 377, s. 95.

Where application in respect of nuisance must be to Supreme Court

129.—(1) Where such removal or abatement involves the loss or destruction of property to the value of $2,000 or more, no determination or order of the Ministry or of a local board for the removal or abatement shall be enforced except by order of a judge of the Supreme Court.

Application for order

(2) The order may be made upon the application of the Ministry or of the local board. R.S.O. 1970, c. 377, s. 96; 1972, c. 1, s. 1.

OFFENSIVE TRADES

Restriction on establishment of offensive trades

130. Any person who, without the consent of the local board or of the municipal council, establishes a trade or business or manufacture for,

(*a*) blood boiling;

(*b*) bone boiling;

(*c*) refining coal oil;

(*d*) extracting oil from fish;

(*e*) storing hides;

(*f*) soap boiling;

(*g*) tallow melting;

(*h*) tripe boiling;

(*i*) slaughtering animals;

(*j*) tanning hides or skins;

(*k*) manufacturing gas;

(*l*) manufacturing glue;

(*m*) manufacturing fertilizer from dead animals or from human or animal waste,

or any other trade, business or manufacture that is or may become offensive or that is by the regulations declared

to be a noxious or offensive trade, business or manufacture, is guilty of an offence and on conviction is liable to a fine of not less than $100 and not more than $250 in respect of the establishment thereof and to a fine of not less than $20 for every day on which, after notice in writing by the local board or an officer thereof to desist, such business, trade or manufacture is carried on, whether there has or has not been any conviction in respect to its establishment. R.S.O. 1970, c. 377, s. 97.

Storing rags, bones, etc.

131. Any person who keeps or stores any rags, bones, junk, bottles, scrap iron or other metals, or other refuse, in a municipality, except on premises approved of by the medical officer of health, is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $50, and the continuance of the offence for each week after conviction shall be considered a separate offence. R.S.O. 1970, c. 377, s. 98.

MEDICAL AND DENTAL INSPECTION IN SCHOOLS

Interpretation

132.—(1) For the purposes of this section and section 133, "school board" means a board having charge over a public, separate, or secondary school.

Agreement for medical and dental inspection of school pupils

(2) A school board may enter into an agreement with the local board of a municipality or health unit to provide for the medical and dental inspection and dental treatment by the local board of the pupils of the school or schools under the charge of the school board.

Power of local board

(3) Where an agreement is entered into by a local board under subsection (2), it has full power and authority to and, until otherwise determined by the school board, shall provide medical and dental inspection of the pupils of the schools mentioned in the agreement in accordance with this or any other Act relating thereto and any regulations made under this or any such other Act, and shall do and perform all acts, matters and things necessary for the purpose.

Agreement need not apply to all schools

(4) It is not necessary for the purposes of subsection (2) for an agreement entered into under it to provide for medical and dental inspection of the pupils of all schools in the charge of a school board or for all the schools in a municipality, but the agreement may relate to the pupils only of any one or more of such schools.

When local board must provide inspection

(5) Where a school board is desirous of entering into an agreement with a local board under subsection (2)

and the local board refuses to enter into it, the Minister, upon the application of the school board and after hearing the representations of the local board and if satisfied that the standards established under this Act for medical and dental inspection of pupils can be provided for, may direct the local board to enter into the necessary agreement and provide for such inspection. R.S.O. 1970, c. 377, s. 99.

Public health nurses

133.—(1) Any school board may enter into an agreement with a county to provide for the employment by and at the expense of the county of public health nurses, school medical officers and dental officers in the schools under the control of the school board.

Medical officer to direct

(2) Where an agreement is entered into under this section and no school medical officer is appointed by the county, the medical officer of health having jurisdiction in the place where the schools are located shall direct and control the activities of the public health nurses so employed.

Levying cost

(3) Where an agreement does not provide for a service in the schools of all the local municipalities forming part of the county, the county may levy the cost against the local municipalities in which the service is provided. R.S.O. 1970, c. 377, s. 100.

INSPECTION OF LODGING HOUSES, LAUNDRIES, ETC.

M.O.H. may enter and examine lodging houses, tenements and laundries

134.—(1) The medical officer of health or any public health inspector acting under his instructions may, at any reasonable time, enter into a lodging house, tenement where rooms are rented, or a laundry where the owner or employees reside upon the premises, or other building where he has reason to suspect that it is overcrowded or occupied by more persons than is reasonably safe for their health. R.S.O. 1970, c. 377, s. 101 (1); 1974, c. 87, s. 6.

When found overcrowded or unsanitary

(2) If upon such examination it is found that the premises are occupied by more persons than is reasonably safe for the health of the occupants or that the sleeping rooms are such that seventeen cubic metres of air space cannot be provided for each occupant, or that the rooms or premises occupied by them are in a filthy or unclean state, or that any matter or thing is there that, in the opinion of the medical officer of health founded on his own inspection or on the report of the public health inspector, may endanger the public health or the health of the occupants, the medical officer of health may order the owner or occupant to remove the inmates from the premises, or to

remove that which causes the premises to be filthy or unclean and put the rooms in a condition fit for human habitation. R.S.O. 1970, c. 377, s. 101(2); 1975, c. 61, s. 13; 1978, s. 87, s. 20 (2).

Placarding premises

135.—(1) Where in the opinion of the medical officer of health any premises are so situated, so constructed or so improperly lighted, or in any other respect of such a character or in such a condition as to be unfit for human habitation or dangerous to health, he may cause the premises to be closed and may affix a notice thereon in a prominent place setting forth the reason for the closing and that the premises are closed by order of the medical officer of health, and no person shall pull down or deface such notice or use the premises closed as a dwelling or cause the same to be so used. R.S.O. 1970, c. 377, s. 102.

Application of ss. 117 to 120

(2) The provisions of subsections 117 (2) and (3) and sections 118, 119 and 120 apply with necessary modifications where an order is made under subsection (1). 1974, c. 87, s. 7.

INSPECTION OF DAIRIES, ETC.

Inspection of dairies, etc.

136.—(1) The medical officer of health may make, or cause to be made by a food and dairy inspector or other competent person approved by the Ministry, an inspection, periodical or otherwise, of all dairies, cheese factories, creameries, dairy farms, slaughter-houses and other lands or premises wherein or from which any milk, cream, cheese, butter, meat or other product intended for human consumption is produced, handled, stored, made, processed, packed, bottled, distributed or delivered, and if upon or as a result of any such inspection he finds that any such building, land or premises, or the equipment, machinery, works or other part of the plant therein, or any other matter or thing therein, is in a filthy or unclean state or that the operations carried on therein are not or cannot be carried on in a sanitary manner, or that persons are employed therein who from incompetency, uncleanliness or otherwise are not proper to be employed therein so that from, or by reason of any such matters or things the public health may be endangered, he may order the owner or occupant of such building, land or premises to remedy such matters or things to his satisfaction and, until such time as he is satisfied that such matters or things are remedied, he may prohibit or regulate the distribution, delivery, sale or offering for sale of any products from such building, land or premises. R.S.O. 1970, c. 377, s. 103 (1); 1972, c. 1, s. 1.

Where distribution, delivery, etc., is made in other centres

(2) When any of the products mentioned in subsection (1) are distributed or delivered from or are made in any of the buildings, land or premises mentioned in that subsection and are sold or offered for sale in a municipality other than the one in which the building, land or premises is situate, the medical officer of health of such other municipality may with respect thereto exercise the powers conferred by subsection (1) and may prohibit or regulate the distribution, delivery, sale or offering for sale of such products in the municipality in which he is the medical officer of health. R.S.O. 1970, c. 377, s. 103 (2).

Service of copy of order and notice of prohibition or regulation

(3) A copy of an order made under subsection (1) and a notice of a prohibition or regulation under subsection (1) or (2) shall be served upon the owner or the person in charge of the building, land or premises in respect of which the order, prohibition or regulation is made.

Application of ss. 117 to 120

(4) The provisions of subsections 117 (2) and (3), subsections 118 (1), (2), (4) and (6) and sections 119 and 120 apply with necessary modifications where an order, prohibition or regulation is made under subsection (1) or (2), and the provisions of subsection 118 (3) apply with necessary modifications where such a prohibition or regulation is made. 1974, c. 87, s. 8.

Offence

(5) Any person contravening the terms of any order, prohibition or regulation made under this section is guilty of an offence and on conviction is liable to a fine of not less than $5 and not more than $100 for each offence, and any product distributed, delivered, sold or offered for sale in contravention of any such prohibition or regulation may upon the order of the convicting court be confiscated and destroyed. R.S.O. 1970, c. 377, s. 103 (4).

PASTEURIZATION OF MILK

No person to sell unpasteurized milk

137.—(1) No person shall sell, offer for sale or deliver in any city or town, or in any other municipality or other area to which, by order in council made upon the recommendation of the Minister, this section is made applicable, milk that has not been pasteurized in a pasteurization plant to which the Ministry has issued a certificate of approval in the prescribed form.

Exceptions

(2) This section does not apply to milk brought into any such city, town, municipality or area by the producer and sold by wholesale to a distributor, nor to products of milk prepared in a plant and by methods approved by the Ministry.

Seizure of milk

(3) Any medical officer of health, public health inspector, food and dairy inspector and any person authorized by a medical officer of health may, without laying any information or obtaining any warrant, seize and remove any milk sold, offered for sale or delivered, including any container in which such milk is found, for the purpose of causing an analysis of such milk to be made.

Offence

(4) Any person who contravenes any of the provisions of this section is guilty of an offence and on conviction is liable to a fine of not less than $25 and not more than $500. R.S.O. 1970, c. 377, s. 104; 1972, c. 1, s. 1.

WATERWORKS AND SEWERAGE

Report of Ministry re waterworks or sewerage, assent of electors not required

138.—(1) Where the Ministry reports in writing that it is of opinion that it is necessary in the interest of the public health that a waterworks system or an adequate water purification plant, or a sewer or a sewerage system, or an adequate sewage treatment plant should be established or continued, or that any existing waterworks system, water purification plant, sewer or sewerage system, or sewage treatment plant should be improved, extended, enlarged, altered, renewed or replaced, it is not necessary to obtain the assent of the electors to a by-law for incurring a debt for any of such purposes.

Council on report of Ministry to pass by-laws and carry out works

(2) Where the Ministry has reported as provided by subsection (1), the council of the municipality shall forthwith pass all necessary by-laws for the establishment of the works reported upon and the municipality shall immediately commence the work and carry it to completion without unnecessary delay.

By-law not to be passed until approved

(3) The by-law shall not be finally passed until the approval of the Ministry has been obtained to the work to be done as hereinbefore provided and it shall recite such approval. R.S.O. 1970, c. 377, s. 105; 1972, c. 1, s. 1.

ICE SUPPLIES

Regulation of ice supply by local board

139.—(1) The local board of a municipality in which supplies of ice are obtained, sold and stored may adopt such regulations regarding the source of supply and the place of storage of the ice as are, in its opinion, best adapted to secure the purity of the ice and prevent injury to the public health, and for the supervision of ice supplies, whether obtained in or outside the municipality, whenever the ice is intended for use in the municipality in which the board has jurisdiction.

Permit for cutting ice

(2) No ice shall be cut from any lake, river, stream, pond or other water for the purpose of being sold or used for domestic purposes unless a permit therefor has been first obtained from the local board, and no person shall sell or deliver or dispose of in any way any ice for domestic purposes without first obtaining a permit therefor from the local board, and the local board may refuse a permit or revoke any granted by it when in its judgment the use of any ice cut or sold or to be cut or sold for domestic purposes under the permit is or would be detrimental to the public health.

Local board to enforce regulations

(3) Every local board shall enforce the regulations of the Ministry and may prohibit the sale and use of any ice in the municipality when, in its judgment, the ice is unfit for use or the use of it would be detrimental to the public health.

Prohibiting distribution in municipality

(4) The local board may prohibit and, through its officers, prevent the bringing of any such ice for the purpose of sale or use for domestic purposes into the municipality and may in the same manner prevent the sale of any such ice for domestic purposes in the municipality when, in its judgment, the ice is unfit for use or the use of it would be detrimental to the public health. R.S.O. 1970, c. 377, s. 106; 1972, c. 1, s. 1.

INSPECTION OF ANIMALS, MEAT, ETC.

Inspection of food supplies

140.—(1) A medical officer of health, food and dairy inspector or public health inspector may at all reasonable times inspect or examine any animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetables, grain, bread, flour, milk or other article exposed for sale or deposited in any place for the purpose of sale, or for preparation for sale, and intended for food for man, and, if such article appears to him to be diseased or unsound or unwholesome or unfit for food for man, he may seize and carry away the article, or cause it to be seized and carried away, in order that it may be destroyed or so disposed of as to prevent it from being exposed for sale or used as food for man.

Offence

(2) The person to whom the article belongs or did belong at the time of exposure for sale, or in whose possession or on whose premises the article was found, is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $100 for every such article, unless he proves that he did not know and had no means of knowing the condition of the article.

Scientific examination where existence of certain diseases charged R.S.C. 1970, c. A-13

(3) Where it is charged upon a prosecution under this section that an animal, or the meat or milk of an animal, is affected with a disease named in section 2 of the *Animal Disease and Protection Act* (Canada), or with wens, clyers, actinomycosis or osteosarcoma or any disease of a cancerous nature, the medical officer of health may make, or cause to be made, or request the Ministry to make, such scientific examination of the animal, meat or milk suspected of being diseased as may enable it to be determined whether or not such disease exists, and the Minister may instruct an officer of the Ministry to make such examination or cause it to be made.

Expenses and fee on examination

(4) The expenses of such examination, together with a fee not exceeding $10, shall be certified by the Deputy Minister and is payable by the treasurer of the municipality in which the animal, meat or milk is found.

Burden of proof

(5) In a prosecution under this section, the burden of proof that an article in respect of which the charge is laid is not kept for sale or intended for food for man is upon the person charged.

Permit required for manufacturing carbonated water, etc.

(6) No person shall manufacture or bottle for sale as food for man any beverage such as carbonated water, natural and artificial mineral water, spring and distilled water, unfermented wine or cordials, concentrated syrup, extracts, essence, fruit juice or any dry substance in concentrated form for the manufacture of any beverage, brewed ginger beer, or other non-intoxicating drink, without first obtaining a permit in writing so to do from the medical officer of health and the local board of the municipality in which the manufacturing or bottling is to be conducted.

Cancellation of permit

(7) When the medical officer and local board of health desire to cancel a permit, they shall give notice in writing of the cancellation to the person or the agent of the person to whom the permit was issued, and the cancellation does not become effective until thirty days after receipt of the notice by the person or agent.

Grounds for refusal or revocation

(8) Such permit may be refused and, if granted, may be cancelled or revoked for failure to comply with the regulations pertaining to the building, equipment and methods of manufacture or bottling of such beverage, or if such beverage upon analysis is found to be contaminated or contain any injurious ingredients, or for other cause is found to be unfit for food. R.S.O. 1970, c. 377, s. 107; 1972, c. 1, s. 1.

Feeding certain things to hogs

141.—(1) Whenever a medical officer of health, food and dairy inspector or public health inspector knows or has reason to believe that blood, offal or the meat of any dead animal that has not been previously boiled or steamed when fresh or before becoming putrid or decomposed or that, although boiled or steamed, is putrid or decomposed has been or is being fed to hogs, he may seize and carry away the hogs, whether dead or alive, or otherwise detain them so as to prevent their removal.

Offence

(2) The owner, or person in charge of, or any person, found feeding any such blood, offal or meat to hogs is guilty of an offence and on conviction is liable to a fine of not less than $5 and not more than $50 and, upon his conviction, the medical officer of health shall order the hogs, whether dead or alive, to be destroyed or so disposed of as to prevent them from being exposed for sale or used for food for man.

Burden of proof

(3) In a prosecution under this section in which it is proved that blood, offal or decomposed meat was found upon the premises, the burden of proof that it was not intended to be fed to hogs is upon the person charged. R.S.O. 1970, c. 377, s. 108.

Cooking of garbage

142. Any person who cooks garbage or other refuse that has been collected or otherwise obtained from other persons, except on premises approved by the medical officer of health, is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $50, and the continuance of the offence for each week after conviction shall be considered a separate offence. R.S.O. 1970, c. 377, s. 109.

Inspection of slaughter houses

143.—(1) Every butcher and other person selling meat shall, on the request of the medical officer of health, make an affidavit as to the place at which the slaughter of his meat is carried on and, where it is outside the municipality, such place shall be open to inspection by the medical officer of health, food and dairy inspector or by an inspector appointed by the council of the municipality in which the meat is offered for sale.

Notice to discontinue sale

(2) In the case of the refusal or neglect to make such affidavit or permit such inspection, the local board may give notice in writing to the butcher or other person to discontinue the sale of meat in the municipality.

Offence

(3) If after receiving such notice the butcher or other person sells or offers for sale any meat in the municipality,

he is guilty of an offence and on conviction is liable to a fine of not more than $20. R.S.O. 1970, c. 377, s. 110.

Offence

144.—(1) Any person who knowingly sells, or has in his possession with intent to sell as food for man, the meat of a calf less than three weeks old is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $50.

Burden of proof

(2) In a prosecution under this section in which it is proved that the meat of a calf less than three weeks old was found upon the premises, the burden of proof that it was not intended as food for man is upon the person charged. R.S.O. 1970, c. 377, s. 111.

MUNICIPAL SLAUGHTER-HOUSES, ABATTOIRS, ETC.

By-laws for establishing slaughter-houses, cattle-yards or pens

145.—(1) The council of a city or town may by by-law provide for the establishment in the municipality, or in an adjoining municipality whose council has by by-law sanctioned its establishment therein, of a public slaughter-house or abattoir with proper cattle-yards and pens in connection therewith for the proper keeping therein of animals intended for slaughter, and for charging fees for the use thereof.

Regulation of slaughter-houses, etc.

(2) Every such slaughter-house, abattoir, cattle-yard and pen shall be constructed, equipped and regulated in conformity with the regulations. R.S.O. 1970, c. 377, s. 112.

Local board of health to have control

146. The local board of the city or town by which the slaughter-house, abattoir, cattle-yard or pen is established has the supervision of it and is responsible for the due carrying out of the regulations, and the costs of the supervision and inspection shall be paid from time to time by the treasurer of the city or town out of the fees charged on the order of the local board. R.S.O. 1970, c. 377, s. 113.

Inspection

147. Such local board may employ one or more persons, approved of by the medical officer of health, to inspect at the slaughter-house, abattoir, cattle-yard or pen all animals, carcasses and meat brought into the municipality and intended for food for man. R.S.O. 1970, c. 377, s. 114.

Inspection of meat-packing establishments

148. Any meat-packing establishment is subject to inspection in the same manner as a municipal slaughter-house or abattoir. R.S.O. 1970, c. 377, s. 115.

USE OF FORCE—ASSISTANCE BY CONSTABLES, ETC.

Offence

149. Any person who obstructs, hinders, delays or prevents an officer of the Ministry, or any local board or a member thereof, medical officer of health or public health inspector, or any person employed by or acting under the direction of any of them in the exercise of any of the powers conferred, or performance of any of the duties imposed upon them by this Act or by the regulations, or in carrying out any order lawfully given by them, is guilty of an offence and on conviction is liable to a fine of not less than $25 and not more than $100. R.S.O. 1970, c. 377, s. 116; 1972, c. 1, s. 1.

FINES AND THE RECOVERY THEREOF

Offences re communicable diseases

150.—(1) Any person who contravenes any of the provisions of sections 92 to 114 for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than $25 and not more than $100. R.S.O. 1970, c. 377, s. 118 (1).

Other offences

(2) Any person who contravenes any other provision of this Act or of the regulations for which no other penalty is provided or of the by-law in Schedule B or of any municipal by-law passed under this Act, or who wilfully disobeys or neglects to carry out any order or direction lawfully made or given by the Ministry, an inspector appointed under section 3, a local board, medical officer of health or public health inspector, is guilty of an offence and on conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(3) Where a corporation is convicted of an offence under subsection (2), the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Directors and officers

(4) Where a corporation has been convicted of an offence under subsection (2),

(*a*) each director of the corporation; and

(*b*) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he had no knowledge of any of the acts constituting the offence,

and could not reasonably be expected to have had such knowledge and that he exercised reasonable diligence to prevent the commission of the offence. 1974, c. 61, s. 12.

Continuance of offence

(5) Where a person has been convicted of an offence under this Act or under any regulation or by-law enacted or in force thereunder, and the offence is in the nature of an omission or neglect, or is in respect of the existence of a nuisance or other unsanitary condition that it is such person's duty to remove, or of the erection or construction of anything contrary to this Act or any regulation or by-law enacted or in force thereunder, then, if the proper authority in that behalf gives reasonable notice to the person to make good the omission or neglect, or to remove the nuisance or unsanitary condition, or to remove the thing that has been erected or constructed contrary to this Act or to such regulation or by-law, and default is made in respect thereof, the person offending may be convicted for such default and is liable to the same punishment as was or might have been imposed for the original offence, and so on, from time to time, as often as after another conviction, a new notice is given and the default continues, and, in case of a third or subsequent conviction, it is not necessary in the information, conviction or other proceedings to make any reference to any conviction, except the first, or to any notice except that in respect of which the proceedings are then being taken.

Offence

(6) Every person who sells either publicly or privately any of the biological products supplied to the public free of charge by the Ministry is guilty of an offence and on conviction is liable to a fine of $100 and, in default of payment thereof, is liable to imprisonment for a term of three months.

Idem

(7) Every person who sells either publicly or privately any report or information received from the Ministry relating to any test of water or milk, and every person who charges any fee for any such report or information, is guilty of an offence and on conviction is liable to a fine of $100, and, in default of payment thereof, is liable to imprisonment for a term of not more than three months. R.S.O. 1970, c. 377, s. 118 (3-5); 1972, c. 1, s. 1.

Application of fines R.S.O. 1980, c. 6

151.—(1) Subject to the *Administration of Justice Act*, every fine removed under this Act where the prosecution

is by or at the instance of a municipality, or the local board, or the medical officer of health or other health officers of the municipality, shall be paid to the treasurer of the municipality in which the offence was committed for the use of the local board.

Offences in unorganized territory

(2) Where the prosecution is at the instance of the Ministry or of any provincial officer or where the offence was committed in territory without municipal organization, the fine shall be paid to the Treasurer of Ontario. R.S.O. 1970, c. 377, s. 120; 1972, c. 1, s. 1.

Where offence is against Act and by-law

152. Where any act or omission is a contravention of any express provision of this Act and is also a contravention of a by-law of a municipality in respect of a matter over which the council of the municipality has jurisdiction, a conviction may be had under either the Act or the by-law, but a conviction shall not be made under both for the same act or omission. R.S.O. 1970, c. 377, s. 121.

Provincial analysts

153. The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this and every other Act in which a provincial analyst is mentioned. R.S.O. 1970, c. 377, s. 122.

Certificate to be evidence of fact

154. In a prosecution under this Act or the regulations, upon production of a certificate or report signed or purporting to be signed by a provincial analyst as to the analysis or ingredients of any milk or water, or any upholstered or stuffed articles including mattresses, quilts, covers, pillows and other bedding, furniture and dolls, such certificate or report is *prima facie* evidence of the facts stated therein and of the authority of the person giving or making the certificate or report without any proof of appointment or signature. R.S.O. 1970, c. 377, s. 123.

Certificate of poverty or inability a bar to prosecution

155. Where a person who is unable from poverty or other sufficient cause to comply with any of the provisions of this Act or of the regulations gives notice of such inability to the medical officer of health, and the local board on examination is satisfied of such inability, the secretary thereof shall give his certificate to that effect, and such certificate is a bar to all proceedings against such person for a period of six months. R.S.O. 1970, c. 377, s. 124.

STATUTORY BY-LAW

Application of Sched. B

156.—(1) Subject to section 12, the by-law in Schedule B shall be in force in every municipality as if enacted by the council thereof, and the council of every municipality may pass by-laws with the approval of the Minister for making additional requirements in respect of any matters dealt with by the by-law in Schedule B.

Power of municipality to amend Sched. B

(2) The council of any municipality may, with the approval of the Minister, amend the by-law in Schedule B for the purposes of such municipality so as to conform to the requirements of the municipality or to meet such special circumstances as, in the opinion of the Minister, may warrant such amendment and, subject to section 12, every such amendment has the same force and authority as a regulation made by the Minister.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing that the by-law in Schedule B, or any of the matters dealt with therein, shall apply with necessary modifications to territory without municipal organization or any area forming a part thereof designated by the regulations;

(*b*) amending the by-law in Schedule B,

(i) so as to conform with the requirements of any area mentioned in clause (*a*), or

(ii) to meet such special circumstances as may warrant such amendment, or

(iii) for making additional requirements in respect of any matter mentioned in Schedule B. R.S.O. 1970, c. 377, s. 125.

Public swimming pools, regulating

157. The board of health of a health unit or the council of a municipality that does not form part of a health unit may pass by-laws,

(*a*) for governing and regulating public swimming pools;

(*b*) for licensing public swimming pools and prescribing conditions therefor, including a fee for each licence, and for revoking such licences; and

(*c*) for prohibiting the use of public swimming pools unless licensed. R.S.O. 1970, c. 377, s. 126.

POSTPONEMENT OF MUNICIPAL AND SCHOOL ELECTIONS

Postponement of election in case of epidemics

158.—(1) Where the Minister reports to the Lieutenant Governor that on account of the prevalence in a municipality of a communicable disease it would be dangerous to hold an election in the municipality, the Lieutenant Governor in Council may, of his own motion or upon the application of the council of the municipality, issue his proclamation postponing the holding of any intended municipal or school election for a period not exceeding three months, and may from time to time further postpone the election if, in the opinion of the Minister, the necessity for postponement continues.

Fixing date for holding postponed election

(2) The Lieutenant Governor may, by the proclamation, name the days for holding the nomination and polling, but, if no days are named therefor, the council shall as soon as practicable after the period named in such proclamation, or the last of such proclamations, expires, by by-law name the days for the nomination and polling. R.S.O. 1970, c. 377, s. 127.

UNORGANIZED TERRITORY

Application of ss. 160 to 166

159. Séctions 160 to 166 apply only to territory without county or regional or district municipality organization. R.S.O. 1970, c. 377, s. 128.

Regulations

160.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations,

(*a*) respecting any industry and the conditions under which the industry may be carried on for the purpose of preventing nuisances and the outbreak or spread of disease;

(*b*) providing for the cleansing, regulating and inspection of lumbering camps and of mining camps and railway construction works and of other places where labour is employed;

(*c*) providing for the inspection of houses and premises;

(*d*) providing for the employment of legally qualified medical practitioners by employers of labour in lumbering camps and in mining camps and on railway construction works and other works where labour is employed;

(*e*) respecting the entering into, adoption, establishment, operation, termination or suspension of,

(i) any contract for the employment of a legally qualified medical practitioner to undertake the medical and surgical care and treatment of employees of one or more employers of labour mentioned in this section,

(ii) any scheme or arrangement for the medical and surgical care and treatment of employees of one or more employers of labour mentioned in this section, or

(iii) any scheme or arrangement for the hospital care and treatment of employees of one or more employers of labour mentioned in this section who are not residents as defined by the regulations under the *Health Insurance Act* R.S.O. 1980, c. 197 and who are not entitled to receive insured services under a hospitalization plan administered by or under the authority of the government of another province pursuant to an agreement made by that province with the Government of Canada under the *Hospital Insurance and Diagnostic Services Act* (Canada), R.S.C. 1970, c. H-8

and prescribing the forms to be used and reports to be made to the Minister;

(*f*) prescribing, with respect to the deductions referred to in section 161, the amount thereof, the method of collection, the accounting therefor, the reports to be made in connection therewith, and providing for the inspection of employers' books and the conditions of payment to a legally qualified medical practitioner or other person entitled to receive such payments.

General, local or special

(2) The regulations may be general in their application or may be made applicable specially to any particular locality or industry.

Expenses

(3) The expenses of carrying out the regulations shall be paid to the person entitled thereto by the persons whose duty it is to carry out such regulations, and the amount so to be paid shall be apportioned by the Minister among them as he considers proper, and every amount so apportioned shall be deemed to be a debt due from the person and may be recovered by the person entitled thereto by action in any court of competent jurisdiction.

Procedure on default of compliance

(4) If default is made in complying with any of the regulations, the Ministry may direct that what is omitted

to be done shall be done at the expense of the person in default and, if the default is the failure to employ a legally qualified medical practicioner as provided by clause (1) (*d*), the employing person is liable to pay the reasonable expenses incurred by any employee for medical attendance and medicines, and for his maintenance during his illness.

Penalties for breaches of regulations

(5) Where any regulation has been made by the Minister with the approval of the Lieutenant Governor in Council under this section relating to territory without municipal organization, the regulation may provide for the imposing of fines for the contravention of any regulation made under this section and every such fine is recoverable under the *Provincial Offences Act*. R.S.O. 1970, c. 377, s. 129; 1972, c. 1, s. 1.

R.S.O. 1980, c. 400

Medical and surgical contracts and schemes and deduction from wages

161.—(1) Where an employer of labour mentioned in section 160,

(*a*) has entered into a medical contract for the employment of a legally qualified medical practitioner to undertake the medical and surgical care and treatment of his employees; or

(*b*) has established a scheme or entered into an arrangement for the medical and surgical care and treatment of his employees,

under which the employer is responsible for the provision of the medical and surgical care and treatment for a period not exceeding thirty days in respect of each illness or disability, the employer may, with the approval of the Minister, deduct the amount prescribed by the regulations, but not exceeding $1.50 per month, from the wages of each employee.

Hospital schemes for non-resident employees and deduction from wages

(2) Where an employer of labour mentioned in section 160 has established a scheme or entered into an arrangement referred to in subclause 160 (1) (*e*) (iii), he may deduct monthly the amount prescribed as the premium rate payable by a single person by the regulations under the *Health Insurance Act* from the wages of each employee entitled to the care and treatment under the scheme or arrangement.

R.S.O. 1980, c. 197

Extent of hospital scheme

(3) Any scheme or arrangement referred to in subsection (2) shall provide hospital care and treatment so long as it is medically necessary for a period not exceeding ninety days whether the employee is hospitalized in Ontario or in another province or territory of Canada. R.S.O. 1970, c. 377, s. 130.

Constables to be *ex officio* public health inspectors

162. Every constable is *ex officio* a public health inspector for the locality for which he is appointed. R.S.O. 1970, c. 377, s. 131.

Superintendent and officers in Algonquin Park

163. The Superintendent of the Algonquin Park is *ex officio* a medical officer of health for the Park and for the territory surrounding it for the distance of 1.6 kilometres therefrom or from any part thereof, and all the park rangers, whether employed temporarily or otherwise, are *ex officio* public health inspectors under this Act for the Park and such territory. R.S.O. 1970, c. 377, s. 132; 1978, c. 87, s. 20 (3).

Local officers of health specially appointed

164. The Lieutenant Governor in Council may appoint medical officers of health and every such officer, in the locality for which he is appointed, has all the powers and shall perform all the duties by this Act or any other Act conferred or imposed upon medical officers of health or local boards of health, and shall also perform such other duties as the Lieutenant Governor in Council directs. R.S.O. 1970, c. 377, s. 133.

Public health inspectors

165. The Minister may, with the approval of the Lieutenant Governor in Council, appoint in any of the unorganized districts one or more public health inspectors, who possess, in addition to the powers conferred upon public health inspectors by this Act, all the powers conferred upon local boards of health by section 31. R.S.O. 1970, c. 377, s. 134.

Salaries

166. The medical officer of health and the public health inspectors shall be paid such salary or other remuneration as is determined by the Lieutenant Governor in Council out of the appropriation made by the Legislature for the purposes of the Ministry. R.S.O. 1970, c. 377, s. 135; 1972, c. 1, s. 1.

Full-time public health services in isolated municipalities

167.—(1) Where a municipality in a territorial district,

(*a*) does not form part of a health unit; and

(*b*) does not provide full-time public health services,

the Minister may enter into an agreement with the council of the municipality to provide full-time public health services.

Idem

(2) The agreement mentioned in subsection (1) shall specify the services to be rendered and the charges to be made for such services. R.S.O. 1970, c. 377, s. 136.

SERVICE OF ORDERS OR NOTICES

Service of orders or notices

168. Notwithstanding any other provision of this Act, any order or notice required under this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where the order or notice is served by registered mail, the service shall be deemed to have been made on the seventh day after the day of mailing unless the person to whom the order or notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the order or notice until a later date. 1974, c. 87, s. 10.

SCHEDULE A

(*Section 84 (2)*)

PUBLIC HEALTH NOTICE

Take notice that, by virtue of the *Public Health Act* and the regulations made thereunder, possession has been taken (*or* obtained, *as the case may be*) of the following lands (*or* buildings, *as the case may be*), namely,

(*Reasonable Description*)

and further take notice that such land (*or* building) will be occupied and used for the purposes of the said Act or regulations from and after the date hereof for a period of.....
or such other time as may, in the discretion of the undersigned, be necessary.

Dated, etc.

(*Signature*)

R.S.O. 1970, c. 377, Sched. A.

SCHEDULE B

(*Sections 14 (6), 156*)

BY-LAW IN FORCE IN EVERY MUNICIPALITY UNTIL ALTERED BY THE MUNICIPAL COUNCIL

Duty of M.O.H.

1. The medical officer of health shall assist and advise the local board of health and its officers in matters relating to public health, and superintend the enforcement and observance within the municipality of health by-laws or regulations, and of any other sanitary laws, and perform such other duties and lawful acts for the preservation of the public health as are, in his opinion, necessary, or as are required by the Ministry of Health for Ontario. He shall also present to the said board, before the 31st day of January in each year, a full report upon the sanitary condition of the municipality during the preceding calendar year.

Duty of public health inspector

2. The public health inspector, besides performing the duties imposed by this by-law, shall assist the medical officer of health, and perform such other duties as are from time to time assigned to him by the local board of health or the medical officer of health.

Chairman of board of health to report to council

3. The chairman of the local board of health shall, before the 15th day of February in each year, present to this council a report containing a detailed statement of the work of the board during the year, and the report of the sanitary condition of the municipality as rendered to the board by the medical officer of health. A copy of each such report shall be transmitted by the secretary to the Ministry.

Deposits endangering public health prohibited

4. No person shall within the municipality suffer the accumulation upon his premises, or deposit or permit the deposit upon any land belonging to him of anything that may endanger the public health, or deposit upon, on or into any street, square, lane, by-way, wharf, dock, slip, lake, pond, bank, harbour, river, stream, sewer or water, any manure or other refuse, or vegetable or animal matter or other filth.

Duty of public health inspector as to lands, etc.

5. The public health inspector shall keep a vigilant supervision over all streets, lanes, by-ways, lots or premises upon which any such accumulation may be found, and at once notify the persons who own or occupy such lots or premises, or who either personally or through their employees have deposited such manure, refuse, matter or filth in any street, lane or by-way to cleanse the same and to remove what is found thereon. Such persons shall forthwith remove the same, and if the same be not removed within twenty-four hours after such notification, the inspector may prosecute the persons so offending, and he may also cause the same to be removed at the expense of the person or persons so offending. He shall also inspect at intervals, as directed by the local board of health or medical officer of health, all premises occupied by persons residing within the municipality, and shall report to the board every contravention of any of the provisions of this by-law or of any other regulation for the preservation of the public health, and shall also report every case of refusal to permit him to make such inspection.

Examination of premises by public health inspectors

6. Whenever it appears to the local board or to any of its officers that it is necessary for the preservation of the public health or for the abatement of anything dangerous or injurious to the public health, or whenever a notice signed by one or more inhabitant householders of the municipality is received stating the condition of any building in the municipality to be so filthy as to be dangerous to the public health or that upon any premises in the municipality there is any foul or offensive ditch, gutter, drain, privy, cesspool, ash-pit or cellar kept or constructed so as to be dangerous or injurious to the public health or that upon any such premises an accumulation of dung, manure, offal, filth, refuse, stagnant water or other matter or thing is kept so as to be dangerous or injurious to the public health, the public health inspector shall enter such building or premises for the purpose of examining the same, and if necessary he shall order the removal of such matter or thing. If the occupant or owner or his lawful agent or representative having charge or control of such building or premises, after having had twenty-four hours notice from any such officer to remove or abate such matter or thing, neglects or refuses to remove or abate the same, he is subject to the fines mentioned in subsection 150 (2) of the *Public Health Act*.

Notice to put premises in proper sanitary condition

7. If the local board is satisfied upon due examination that a cellar, room, tenement or building within the municipality, occupied as a dwelling place, has become by reason of the number of occupants, want of cleanliness, the existence therein of a communicable disease, or other cause, unfit for such purpose, or that it has become a nuisance, or in any way dangerous or injurious to the health of the occupants, or of the public, the board may give notice in writing to such occupants, or any of them, requiring the premises to be put in proper sanitary condition, or requiring the occupants to quit the premises within such time as the board deems reasonable. If the person so notified, or any of them, neglect or refuse to comply with the terms of the notice, every person so offending is liable to the fines mentioned in subsection 150 (2) of the *Public Health Act* and the board may cause the premises to be properly cleansed at the expense of the owners or occupants or may remove the occupants forcibly and close up the premises, and the same shall not again be occupied as a dwelling place until put into proper sanitary condition.

Location of slaughter-house, etc.

8. No person shall at any time use any house, shop or out-house as a slaughter-house or as a place for slaughtering animals or fowl therein, unless such shop, house or out-house is distant not less than 180 metres from any dwelling house and not less than forty-five metres from any public street.

Inspection of slaughter-houses

9. All slaughter-houses within the municipality are subject to inspection under the direction of the local board of health, and no person shall keep any slaughter-house unless the permission in writing of the board for the keeping of such slaughter-house has been first obtained and remains unrevoked. Such permission shall be granted, after approval of such premises upon inspection, subject to the condition that the slaughter-house shall be so kept as to comply with the regulations of the Ministry respecting slaughter-houses, and upon such condition being broken the permission may be revoked by the board, and all animals to be slaughtered, and all fresh meat exposed for sale in the municipality are subject to like inspection.

Inspection of cow stables, cheese factories and creameries

10. All milch cows, cow stables and dairies, and all places in which milk is sold or kept for general use, and all cheese factories and creameries are subject to inspection under the direction of the board, and the proprietors shall obtain permission in writing from the board to keep any such dairy or other place in which milk is so sold or kept or to keep a cheese factory or creamery, and the same shall not be kept by any person without such permission, which shall be granted after approval of such premises upon inspection, subject to the condition that all such places are so kept and conducted that the milk will not contain any matter or thing liable to produce disease, either by reason of adulteration, contamination with sewage, absorption of disease germs, infection of cows, or any other cause, and upon such condition being broken, such permission may be revoked by the board.

Sale of diseased food

11. No person shall offer for sale within the municipality, as food, any diseased animal, or any meat, fish, fruit, vegetables, milk or other article of food which, by reason of disease, adulteration, impurity or other cause, is unfit for use.

Supply of drinking water

12. The owner of every house within the municipality shall provide for the occupants of the house a sufficient supply of water for drinking and sanitary purposes, and if any occupant of the house is not satisfied with the wholesomeness or sufficiency of such supply, he may apply to the local board of health to determine as to the same. If the supply is sufficient and wholesome, the expense incident to such determination shall be paid by such occupant, and if not, by the owner, and in either case such expense is recoverable in the same manner as municipal taxes.

Wells to be treated

13. If the local board of health or the medical officer of health certifies that any well should be filled in or otherwise treated, such well shall be dealt with accordingly by the owner or occupant of the premises. Pending compliance with the order of the local board of health or the local medical officer of health, the local medical officer of health shall take such measures as in his judgment may be necessary to prevent the use of water from such well. No well shall be used as a privy, privy-vault or cesspool.

Supplying toilet accommodation

14. The owner of every house, apartment and place of business within the municipality shall provide for the occupants, employees and customers adequate sanitary closets and toilet acccommodation.

Removal of decayed animal or vegetable matter

15. All putrid and decaying animal or vegetable matter shall be removed from all cellars, buildings, out-buildings and yards on or before the 1st day of May in each year.

Removal of garbage

16. Every householder and every hotel and restaurant-keeper or other person shall dispose of all garbage, for the disposal of which he is responsible, either by burning it or by placing it in a properly covered receptacle, the contents of which shall be removed at least twice in every week.

Restaurants to have wash rooms, etc.

17. All restaurants or eating houses operated in the municipality shall have wash rooms and toilets, one for males and one for females, for the accommodation of the public.

Swine

18. Swine shall not be kept within the municipality except in pens with floors kept free from standing water and regularly cleansed and disinfected and distant at least thirty metres from any dwelling house, schoolhouse or church.

Livery stables

19. The keeper of every livery or other stable shall keep his stable and stable-yard clean, and shall not permit more than two wagon-loads of manure to accumulate in or near his stable at any one time, and shall at all times keep such manure in a proper covered receptacle.

Soil of house sites to be disinfected

20. No house shall be built upon any site, the soil of which has been made up of any refuse, unless the soil has been removed from the site and the site disinfected, or unless the soil has been covered with a layer of charcoal or ashes or covered with a layer of concrete at least fifteen centimetres thick and of such additional thickness as may be requisite under the circumstances to prevent the escape of gases into such proposed house.

Forms

21. The medical officer of health or the secretary of the local board of health shall provide each legally qualified medical practitioner practising within the municipality with blank forms on which he shall report cases of communicable disease to the medical officer of health, officer or secretary, and, also, with other blank forms on which to report death or recovery from any such disease.

Idem

22. All such forms shall be printed, gummed and folded so that they may be readily sealed, without the use of an envelope, and shall call for the following information:

Report of Communicable Disease.

Given name and surname of patient:
Age of patient:
Locality (*giving street, number of house or lot*) where patient is:
Name of disease:
Name of school attended by children from that house:
Measures employed for isolation and disinfection:

.....
(*Signature of physician*)

Report of Death or Recovery from Infectious Disease.

Given name and surname of patient:

Locality (*giving street, number of house or lot*) where patient is:

Name of disease:

How long sick:

Whether dead or recovered:

Means of disinfection employed, and when employed:

.....

(*Signature of physician*)

Placarding

23. The medical officer of health, within six hours after he has received notice of the existence in any house of any communicable disease or the presence of any communicable disease contacts in respect of which it is his duty to do so, shall affix or cause to be affixed near the entrance of such house, in plain view of the public, a card at least thirty centimetres wide and twenty-two centimetres long, stating that such premises are under quarantine on account of such disease and the penalty for the affixing or removal of such card without the permission of the medical officer of health, and no person shall affix or remove any such card without his permission.

Animals affected

24. No animal suffering from any communicable disease shall be brought or kept within the municipality, except by permission of the medical officer of health.

R.S.O. 1970, c. 377, Sched. B; 1972, c. 1, s. 1; 1974, c. 61, s. 13; 1978, c. 87, s. 20 (4).

SCHEDULE C

Pharmacopoea Internationalis

The British Pharmacopoeia

The Pharmacopoeia of the United States of America

Codex Francais

The Canadian Formulary

The British Pharmaceutical Codex

The National Formulary

R.S.O. 1970, c. 377, Sched. C.

CHAPTER 410

Public Hospitals Act

1. In this Act, Interpretation

(*a*) "administrator" means the person who has for the time being the direct and actual superintendence and charge of a hospital;

(*b*) "Appeal Board" means the Hospital Appeal Board;

(*c*) "board" means the board of directors, governors, trustees, commission or other governing body or authority of a hospital;

(*d*) "dependant" means a patient the charges for whose treatment some other person is liable for in law;

(*e*) "hospital" means any institution, building or other premises or place established for the treatment of persons afflicted with or suffering from sickness, disease or injury, or for the treatment of convalescent or chronically ill persons that is approved under this Act as a public hospital;

(*f*) "inspector" means an officer of the Ministry designated under this Act as an inspector;

(*g*) "medical advisory committee" means a committee established under section 32;

(*h*) "medical department" means a division of the medical staff of a hospital for the provision of a specified type of medical diagnosis or treatment;

(*i*) "Minister" means the Minister of Health;

(*j*) "Ministry" means the Ministry of Health;

(*k*) "municipality" means a city, separated town or county, except that in a territorial district it means a city, town, village, township or improvement district;

(*l*) "out-patient" means a person who is received in a hospital for examination or treatment or both, but who is not admitted as a patient;

(*m*) "patient" means a person received and lodged in a hospital for the purpose of treatment;

(*n*) "physician" means a legally qualified medical practitioner;

(*o*) "provincial aid" means any sum paid to a hospital under this Act or the *Health Insurance Act*; R.S.O. 1980, c. 197

(*p*) "regulations" means the regulations made under this Act;

(*q*) "resident" means actually resident in a municipality for a period of three months within the six months next prior to admission to a hospital;

(*r*) "territorial district" means a territorial district set forth in the *Territorial Division Act*; R.S.O. 1980, c. 497

(*s*) "treatment" means the maintenance, observation, medical care and supervision and skilled nursing care of a patient and, if dental service is made available in a hospital by its board, includes the dental care and supervision of the patient;

(*t*) "unorganized territory" means those parts of Ontario that are without municipal organization, including Indian reservations and provincial parks, but not including property of the Government of Canada used for the purposes of national defence installations, camps or stations. R.S.O. 1970, c. 378, s. 1; 1972, c. 90, s. 1.

Private hospitals not affected

2. Nothing in this Act in any way relates to or affects a private hospital under the *Private Hospitals Act*. R.S.O. 1970, c. 378, s. 2; 1972, c. 90, s. 2. R.S.O. 1980, c. 389

Administration and enforcement

3. The Minister shall administer and enforce this Act and the regulations. R.S.O. 1970, c. 378, s. 3; 1972, c. 90, s. 3.

Approval of incorporation

4.—(1) No application to incorporate a hospital under the *Corporations Act* or under a private Act shall be proceeded with until it has first received the approval of the Minister. R.S.O. 1970, c. 378, s. 4 (1); 1972, c. 90, s. 4 (1). R.S.O. 1980, c. 95

(2) No institution, building or other premises or place shall be operated or used for the purposes of a hospital unless it has received the approval of the Lieutenant Governor in Council upon the recommendation of the Minister. R.S.O. 1970, c. 378, s. 4 (2); 1972, c. 90, s. 4 (2). Approval for use

(3) No additional building or facilities shall be added to a hospital until the plans therefor have been approved by the Minister. R.S.O. 1970, c. 378, s. 4 (3); 1972, c. 90, s. 4 (3). Approval of additions

(4) No land, building or other premises or place or any part thereof acquired or used for the purposes of a hospital shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Minister. R.S.O. 1970, c. 378, s. 4 (4); 1972, c. 90, s. 4 (4). Approval of sales

(5) Any approval given or deemed to have been given under this Act in respect of a hospital may be suspended by the Minister or revoked by the Lieutenant Governor in Council. R.S.O. 1970, c. 378, s. 4 (5); 1972, c. 90, s. 4 (5). Suspension or revocation of approval

5. The Minister may pay provincial aid to hospitals in such amounts, in such manner and at such times as the regulations prescribe. R.S.O. 1970, c. 378, s. 5; 1972, c. 90, s. 5. Grants to hospitals

6. The Minister may make loans to hospitals under such terms and conditions, in such amounts, in such manner and at such times as the regulations provide. R.S.O. 1970, c. 378, s. 6; 1972, c. 90, s. 6. Loans to hospitals

7. Every hospital has power to carry on its undertaking as may be authorized by any general or special Act under which it was created, established, incorporated or empowered so to do. 1972, c. 90, s. 7, *part*. Powers

8. Subject to the *Expropriations Act*, a board may expropriate any real property necessary for the purpose of properly conducting the hospital. 1972, c. 90, s. 7, *part*. Expropriation R.S.O. 1980, c. 148

9.—(1) A hospital shall pass by-laws as prescribed by the regulations, subject to the approval of the Minister. 1972, c. 90, s. 8 (1). By-laws

(2) A hospital shall pass, amend or revise its by-laws and submit them to the Minister after receiving notice to do so as prescribed by the regulations. R.S.O. 1970, c. 378, s. 9 (2); 1972, c. 90, s. 8 (2). Idem

Idem

(3) No by-law, or amendment to or revision of a by-law, made under subsection (2) has any force or effect until it is approved by the Lieutenant Governor in Council upon the recommendation of the Minister. 1972, c. 90, s. 8 (3).

Rotation of directors
R.S.O. 1980, c. 95

(4) Notwithstanding the *Corporations Act*, a hospital may provide by by-law for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least four directors shall retire from office each year.

Special directors

(5) Notwithstanding the *Corporations Act*, a hospital may provide by by-law for the appointment by its board, in recognition of contributions or of long or special services to the hospital considered worthy of such appointment, of life directors, term directors and honorary directors.

Idem

(6) A life director may attend meetings of the board during his lifetime and vote in person but not by proxy thereat, and the number of life directors at any time shall not exceed the number of elected and *ex officio* directors.

Idem

(7) A term director may attend meetings of the board for a term not exceeding ten years as specified in the by-law and vote in person but not by proxy thereat.

Idem

(8) An honorary director may attend meetings of the board and may act in an advisory capacity without the right to vote or may vote in person but not by proxy as determined by the by-law.

Idem

(9) The by-law may provide for the appointment of members or retired members of the medical, dental, nursing or administrative staffs of the hospital as honorary directors of the hospital.

Idem

(10) The number of honorary directors with the right to vote at board meetings plus the number of term directors at any time shall not exceed the number of elected and *ex officio* directors. R.S.O. 1970, c. 378, s. 9 (4-10).

Idem

(11) Notwithstanding the *Corporations Act*, upon the recommendation of the Minister, the Lieutenant Governor in Council may appoint one or more provincial hospital representatives to the board of a hospital for a term of office of not more than three years and such provincial hospital representatives shall have all the rights and responsibilities of elected directors. 1972, c. 90, s. 8 (4).

Protection from liability

10. No member of a committee of the medical staff of a hospital or of the board or Appeal Board or of the staff thereof and no witness in a proceeding or investigation before such committee or board is liable for anything done or said in good faith in the course of a meeting, proceeding, investigation or other business of the committee or board. 1972, c. 90, s. 9.

Medical records

11. The medical record compiled in a hospital for a patient or an out-patient is the property of the hospital and shall be kept in the custody of the administrator. R.S.O. 1970, c. 378, s. 11.

Management committee

R.S.O. 1980, c. 95

12. Notwithstanding the *Corporations Act*, no hospital by-law authorizing the board to elect a management committee and to delegate to the management committee any powers of the board requires to be confirmed at a general meeting of the members of the hospital corporation. R.S.O. 1970, c. 378, s. 12.

No voting by proxy

13. No member of a hospital corporation shall vote by proxy at any meeting of the corporation. R.S.O. 1970, c. 378, s. 13.

Notice of hospital meetings

14.—(1) Notwithstanding the *Corporations Act*, it is not necessary to send written notice of any general or special meeting of the members of the hospital corporation to each member of the hospital corporation.

Idem

(2) It is sufficient notice of any general or special meeting of the members of the hospital corporation if notice is given by publication at least once a week for two successive weeks next preceding the meeting in a newspaper or newspapers circulated in the municipality or municipalities in which members of the hospital corporation reside as shown by their addresses on the records of the hospital. R.S.O. 1970, c. 378, s. 14.

Inspectors

15. The Minister may designate one or more officers of the Ministry to be inspectors for the purposes of this Act and the regulations. 1972, c. 90, s. 10.

Admission of chronically ill persons

16. No hospital for chronically ill persons shall admit as a patient an indigent person or the dependant of an indigent person until such person or dependant is certified in accordance with the regulations to be a chronically ill person. R.S.O. 1970, c. 378, s. 16.

Admission of patients

17. Where,

(*a*) a person has been admitted to a hospital by a physician pursuant to the regulations; and

(*b*) such person requires the level or type of hospital care for which the hospital is approved by the regulations,

the hospital shall accept such person as a patient. 1972, c. 90, s. 11.

Refusal of admission

18. Nothing in this Act requires any hospital to admit as a patient,

(*a*) any person who is not a resident or a dependant of a resident of Ontario, unless by refusal of admission life would thereby be endangered; or

(*b*) any person who merely requires custodial care. R.S.O. 1970, c. 378, s. 18.

Custodial care

19. Where a patient is an indigent person or a dependant of an indigent person and is declared by the attending physician not to require continued medical and skilled nursing care in a hospital but only requires custodial care, the municipality in which such person was resident at the time of admission is liable to the hospital for payment of the *per diem* rate established for that hospital by the Minister from the twenty-first day after the day on which notice that the patient is declared to require only custodial care has been sent by the superintendent of the hospital by registered mail to the clerk of the municipality until the patient leaves the hospital. R.S.O. 1970, c. 378, s. 19 (1); 1972, c. 90, s. 12 (1).

Facilities for students

20. Subject to any existing agreement relating thereto, every hospital receiving provincial aid shall provide such facilities as the regulations require for dental students, student dietitians, medical students and interns, students of nursing, student laboratory technicians, student physiotherapists, student occupational therapists, student X-ray technicians and student social workers. R.S.O. 1970, c. 378, s. 20.

Interns

R.S.O. 1980, c. 196

21. No person shall be employed as an intern in a hospital unless he is registered under Part III of the *Health Disciplines Act*. R.S.O. 1970, c. 378, s. 21.

Burial expenses by municipality

22. In the event of the death in a hospital of a patient who is an indigent person, or the dependant of an indigent person, the municipality in which he was a resident at the time of his admission shall pay to the hospital any expenses of his burial that it incurs. 1972, c. 90, s. 14.

Statements of account to be rendered

23. Where under this Act the charges for burial expenses of a deceased patient are payable by a municipality, the hospital to which the patient was admitted shall from time to time render to the clerk of the municipality statements of account of any such charges with full particulars thereof, and if the amount of any such account is not paid within a reasonable time after it has been rendered it may be recovered as a debt in any court of competent jurisdiction. R.S.O. 1970, c. 378, s. 32; 1972, c. 90, s. 16.

Municipal right of recourse against patient

24. Upon the payment by a municipality of any account rendered to it by a hospital for any expenses of burial of a deceased patient, the municipality may recover from the patient, or, in the event of his decease, from his estate or personal representatives, or, in the case of a dependant, from any person liable in law with respect to the dependant, the amount of the payment so made, and the same may be recovered as a debt in any court of competent jurisdiction. R.S.O. 1970, c. 378, s. 33 (1); 1972, c. 90, s. 17 (1).

Municipal right of recourse against proper municipality

25. Upon payment by a municipality to a hospital of any account for expenses of burial of a deceased patient by reason of the patient having been assumed to be a resident in the municipality and it being ascertained that the patient was not resident therein but at the time of admission to the hospital was resident in another municipality in Ontario, the municipality that made the payment may recover the amount thereof as a debt from the municipality in which the patient was resident, and upon payment by that municipality it is entitled to exercise the rights of recovery conferred under section 24. R.S.O. 1970, c. 378, s. 34; 1972, c. 90, s. 18.

Indians R.S.C. 1970, c. I-6

26. Any person who is an Indian within the meaning of the *Indian Act* (Canada) shall be deemed for the purpose of this Act not to have established residence in unorganized territory. R.S.O. 1970, c. 378, s. 35.

Offence

27. Every person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than $25 and not more than $500. R.S.O. 1970, c. 378, s. 36.

Limitation of action

28. Any action against a hospital or any nurse or person employed therein for damages for injury caused by negligence in the admission, care, treatment or discharge of a patient shall be brought within two years after the patient is discharged from or ceases to receive treatment at the hospital and not afterwards. R.S.O. 1970, c. 378, s. 37; 1972, c. 90, s. 19.

Regulations for hospitals

29.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make such regulations with respect to hospitals as are considered necessary for,

(*a*) their creation, establishment, construction, alteration, equipment, safety, maintenance and repairs;

(*b*) their classifications, grades and standards;

(*c*) their inspection, control, government, management, conduct, operation and use;

(*d*) prescribing the matters upon which by-laws are to be passed by hospitals;

(*e*) prescribing the powers and duties of inspectors;

(*f*) providing that certain persons shall be by virtue of their office members of the board in addition to the members of the board appointed or elected in accordance with the authority whereby the hospital is established;

(*g*) their administrators, staffs, officers, servants and employees and the powers and duties thereof;

(*h*) providing for the certification of chronically ill persons and the method of referring such persons to hospitals for chronically ill persons;

(*i*) providing for the method of referring convalescent persons to hospitals for convalescent persons;

(*j*) the admission, treatment, care, conduct, control and discharge of patients or any class of patients;

(*k*) prescribing the organization of the medical staff of a hospital including the composition and duties of

admission and discharge committees and other committees of the medical staff;

(*l*) the classification of patients and the lengths of stay of and the rates and charges for patients;

(*m*) requiring a written agreement between each Group A hospital and the university with which the hospital is affiliated for the purpose of providing instruction in the hospital to medical and dental students of the university, and prescribing provisions that shall be included in any such agreement;

(*n*) prescribing the facilities that hospitals shall provide for dental students, student dietitians, medical students and interns, students of nursing, student laboratory technicians, student physiotherapists, student occupational therapists, student X-ray technicians and student social workers;

(*o*) the records, books, accounting systems, audits, reports and returns to be made and kept by hospitals;

(*p*) the reports and returns to be submitted to the Ministry by hospitals;

(*q*) prescribing the requirements to be satisfied for obtaining a valid consent for any surgical operation, diagnostic procedure or medical treatment, the method of obtaining such consent, the conditions under which such consent may be dispensed with and specifying the age or ages at which and under what conditions a patient may give a valid consent for a surgical operation, diagnostic procedure or medical treatment to be performed on himself;

(*r*) prescribing the rates for out-patient services, including emergency cases;

(*s*) prescribing the classes of grants by way of provincial aid and the methods of determining the amounts of grants and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;

(*t*) providing for loans to hospitals under section 6. R.S.O. 1970, c. 378, s. 39 (1); 1972, c. 90, s. 21 (1-6).

Idem

(2) The Minister may from time to time declare all or any of the regulations to be in force with respect to all hospitals

or any one or more hospitals or classes thereof and for such period or periods of time as the Minister considers expedient. R.S.O. 1970, c. 378, s. 39 (2); 1972, c. 90, s. 21 (7).

Notice to college of disciplinary action against physician

30. Where,

(*a*) the application of a physician for appointment or reappointment to a medical staff of a hospital is rejected by reason of his incompetence, negligence or misconduct;

(*b*) the privileges of a member of a medical staff of a hospital are restricted or cancelled by reason of his incompetence, negligence or misconduct; or

(*c*) a physician voluntarily or involuntarily resigns from a medical staff of a hospital during the course of an investigation into his competence, negligence or conduct,

the administrator of such hospital shall prepare and forward a detailed report to The College of Physicians and Surgeons of Ontario. 1972, c. 90, s. 22.

Advice as to quality of professional work in hospitals without departments

31.—(1) Where the medical staff of a hospital is not divided into medical departments, the chief of the medical staff or, where there is no chief, the president of the medical staff may be made responsible by by-law of the hospital to advise the medical advisory committee with respect to the quality of medical diagnosis, care and treatment provided to the patients and out-patients of the hospital.

Idem, in hospitals with departments

(2) Where the medical staff of a hospital is divided into medical departments, the head of each department may be made responsible by by-law of the hospital, through and with the chief of the medical staff or, where there is no chief, through and with the president of the medical staff, to advise the medical advisory committee with respect to the quality of medical diagnosis, care and treatment provided to the patients and out-patients of his department.

Duty where serious problem exists

(3) Where an officer of the medical staff who is responsible under subsection (1) or (2) becomes aware that, in his opinion a serious problem exists in the diagnosis, care or treatment of a patient or out-patient, he shall forthwith discuss the condition, diagnosis, care and treatment of the patient or out-patient with the attending physician, and, if changes in diagnosis, care or treatment satisfactory to him are not made promptly, he shall assume forthwith the duty of investigating, diagnosing, prescribing for and treating the patient or out-

patient, as the case may be, and shall notify the attending physician, the administrator and, if possible, the patient or out-patient that the member of the medical staff who was in attendance will cease forthwith to have any hospital privileges as the attending physician for the patient or out-patient.

Where no discussion with attending physician

(4) Where the officer of the medical staff who is responsible under this section is unable to discuss the problem with the attending physician as required by subsection (3), he shall proceed with his duties as prescribed in this section as if he had had the discussion with the attending physician.

Duty of responsible officer to report action

(5) The officer of the medical staff who is responsible under this section shall inform two members of the medical advisory committee within twenty-four hours of his action under subsection (3) or (4) and shall file a written report with the secretary of the medical advisory committee within forty-eight hours of his action under subsection (3) or (4).

Delegation of responsibilities and duties

(6) The officer of the medical staff who is responsible under this section may delegate any or all of his responsibilities and duties under this section to a member of his medical staff or of his medical department, as the case may be, but he remains accountable to the medical advisory committee for the management of the patient by that member of the medical staff to whom any such responsibility or duty is delegated.

Report to administrator

(7) Where the medical advisory committee concurs in the opinion of the officer of the medical staff who has taken action under subsection (3) or (4) that the action was necessary, the secretary of the medical advisory committee shall forthwith make a detailed written report to the administrator of the problem and the action taken. R.S.O. 1970, c. 378, s. 41.

Medical advisory committee

32.—(1) Every board shall establish a medical advisory committee composed of such elected and appointed members of the medical staff as are prescribed by the regulations.

Duties

(2) The medical advisory committee shall consider and make recommendations to the board respecting any matter referred to it under section 34 and perform such other duties as are assigned to it by or under this or any other Act or by the board. 1972, c. 90, s. 23, *part*.

Powers of board re medical staff

33. The board may,

(*a*) appoint physicians to a group of the medical staff of the hospital established by the by-laws;

(*b*) determine the hospital privileges to be attached to the appointment of a member of the staff; and

(*c*) revoke or suspend the appointment of or refuse to reappoint a member of the medical staff. 1972, c. 90, s. 23, *part*.

Application for medical staff appointment, hospital privileges, etc.

34.—(1) Every physician is entitled to apply for an appointment or a reappointment to any group of the medical staff of a hospital established by its by-laws or for a change in hospital privileges and, upon receipt of a written request, an administrator shall supply an appropriate application form.

Term of appointment

(2) Every physician appointed to the medical staff of a hospital shall be appointed for a period of not more than one year.

Idem

(3) Each application shall be submitted to the administrator who shall immediately refer such application to the medical advisory committee.

Recommendation of medical advisory committee

(4) Each application shall be considered by the medical advisory committee which shall make a recommendation thereon in writing to the board within sixty days from the date of the application.

Idem

(5) Notwithstanding subsection (4), a medical advisory committee may make its recommendation later than sixty days after the date of the application if, prior to the expiry of the sixty day period, it indicates in writing to the board and the applicant that a final recommendation cannot yet be made and gives written reasons therefor.

Notice of recommendation

(6) The medical advisory committee shall give written notice to the applicant and the board of its recommendation.

Idem

(7) A notice under subsection (6) shall inform the applicant that he is entitled to,

(*a*) written reasons for the recommendation if a request is received by the medical advisory committee within seven days of the receipt by the applicant of a notice of the recommendation; and

(*b*) a hearing before the board if a written request is received by the board and the medical advisory committee within seven days of the receipt by the applicant of the written reasons under clause (*a*),

and he may so require such reasons and hearing. 1972, c. 90, s. 23, *part*.

Where no hearing required

35. Where the applicant does not require a hearing by the board in accordance with subsection 34 (7), the board may implement the recommendation of the medical advisory committee. 1972, c. 90, s. 23, *part*.

Powers of board where hearing

36.—(1) Where an applicant requires a hearing by the board in accordance with subsection 34 (7), the board shall appoint a time for and hold the hearing and shall decide the matter in the exercise of its powers under clause 33 (*a*) or (*b*).

Parties

(2) The applicant or member, the medical advisory committee and such other persons as the board may specify are parties to proceedings before the board under this section.

Continuation of appointment pending re-appointment

(3) Where, within the time prescribed therefor, a member has applied for reappointment, his appointment shall be deemed to continue,

(*a*) until the reappointment is granted; or

(*b*) where he is served with notice that the board refuses to grant the reappointment, until the time for giving notice requiring a hearing by the Appeal Board has expired and, where a hearing is required, until the decision of the Appeal Board has become final.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the board holding a hearing shall not have taken part in any investigation or consideration of the subject-matter of the hearing before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Notice of hearing

(5) Where a hearing by the board is required, the person requiring the hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Findings of fact

(6) The findings of fact of the board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1980, c. 484

Only members at hearing to participate in decision

(7) No member of the board shall participate in a decision of the board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the board shall be given unless all members so present participate in the decision.

Extension of time for giving notice

(8) Notwithstanding any limitation of time for the giving of any notice requiring a hearing by the board fixed by or under any Act, and where it is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for applying for the extension, the board may extend the time for giving the notice either before or after expiration of the time so limited, and may give such directions as it considers proper consequent upon such extension. 1972, c. 90, s. 23, *part.*

Hospital Appeal Board established

37.—(1) The Hospital Appeal Board is established and shall be composed of five members appointed by the Lieutenant Governor in Council, one of whom shall be designated by the Lieutenant Governor in Council as chairman.

Members of Appeal Board

(2) The Appeal Board shall be composed of two members who shall be physicians, one member of the legal profession or judiciary and two members representing the public interest, one of whom is a member of a board.

Membership restriction

(3) No employee of the Government of Ontario or of any agency of the Crown shall be appointed a member of the Appeal Board.

Quorum

(4) Three members of the Appeal Board constitute a quorum.

Remuneration

(5) The members of the Appeal Board shall be paid such remuneration for their services as the Lieutenant Governor in Council determines. 1972, c. 90, s. 23, *part.*

Reasons and appeal

38.—(1) Any,

(*a*) applicant for appointment or reappointment to the medical staff of a hospital who was a party to a proceeding before the board and who considers himself aggrieved by a decision of the board not to appoint or not to reappoint him to the medical staff; or

(*b*) member of the medical staff of a hospital who considers himself aggrieved by any decision revoking or suspending his appointment to the medical

staff or under section 31 or the by-laws cancelling, suspending or substantially altering his hospital privileges,

is entitled to,

(*c*) written reasons for the decision if a request is received by the board, person or body making the decision within seven days of the receipt by the applicant or member of a notice of the decision; and

(*d*) a hearing before the Appeal Board if a written request is received by the Appeal Board and the board, person or body making the decision within seven days of the receipt by the applicant or member of the written reasons for the decision. 1973, c. 164, s. 1.

Procedure at hearing

(2) Section 36 applies to a hearing before the Appeal Board in the same manner as if the party or member were an applicant entitled to a hearing before a board under section 34.

Parties

(3) The board and person mentioned in subsection (1) and such other persons as the Appeal Board may specify are parties to proceedings before the Appeal Board under this section.

Recording of evidence

(4) Oral evidence taken before the Appeal Board at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Powers of Appeal Board

(5) After a hearing, the Appeal Board may by order confirm the decision appealed from or direct the board or other person or body making the decision appealed from to take such action as the Appeal Board considers ought to be taken in accordance with this Act, the regulations and the by-laws, and for such purposes may substitute its opinion for that of the board, person or body making the decision appealed from.

Referral of matters to professional organization for report

(6) The Appeal Board may at any time during a hearing and prior to rendering a decision refer any matter to any professional organization for the purpose of obtaining expert assistance or a formal report. 1972, c. 90, s. 23, *part*.

Service of notice

39. Service of a notice under sections 34, 36 and 38 may be made personally or by registered mail addressed to the person to be served at his last known address and, where the notice is served by registered mail, it shall be deemed that the notice was served on the third day after the day of mailing

unless the person to be served establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive it until a later date. 1972, c. 90, s. 23, *part*.

Appeal from decision of Appeal Board

40.—(1) Any party to proceedings before the Appeal Board may appeal from its decision to the Divisional Court in accordance with the rules of court.

Record to be filed in court

(2) Where any party appeals from a decision of the Appeal Board, the Appeal Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Appeal Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may exercise all the powers of the Appeal Board, and for such purpose the court may substitute its opinion for that of the Appeal Board or board or other person or body authorized to make the decision appealed from, or the court may refer the matter back to the Appeal Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1972, c. 90, s. 23, *part*.

CHAPTER 411

Public Inquiries Act

Interpretation

1. In this Act,

(*a*) "commission" means the one or more persons appointed to conduct an inquiry under this Act;

(*b*) "inquiry" means an inquiry under this Act. 1971, c. 49, s. 1.

PART I

Appointment of commission

2. Whenever the Lieutenant Governor in Council considers it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein or that he declares to be a matter of public concern and the inquiry is not regulated by any special law, he may, by commission, appoint one or more persons to conduct the inquiry. 1971, c. 49, s. 2.

Procedure

3. Subject to sections 4 and 5, the conduct of and the procedure to be followed on an inquiry is under the control and direction of the commission conducting the inquiry. 1971, c. 49, s. 3.

Hearings to be open, exceptions

4. All hearings on an inquiry are open to the public except where the commission conducting the inquiry is of the opinion that,

(*a*) matters involving public security may be disclosed at the hearing; or

(*b*) intimate financial or personal matters or other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the commission may hold the hearing concerning any such matters *in camera*. 1971, c. 49, s. 4.

Rights of persons interested

5.—(1) A commission shall accord to any person who satisfies it that he has a substantial and direct interest in the subject-matter of its inquiry an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by his counsel on evidence revelant to his interest.

Rights of persons before misconduct found

(2) No finding of misconduct on the part of any person shall be made against him in any report of a commission after an inquiry unless that person had reasonable notice of the substance of the misconduct alleged against him and was allowed full opportunity during the inquiry to be heard in person or by counsel. 1971, c. 49, s. 5.

Stated case

6.—(1) Where the authority to appoint a commission under this Act or the authority of a commission to do any act or thing proposed to be done or done by the commission in the course of its inquiry is called into question by a person affected, the commission may of its own motion or upon the request of such person state a case in writing to the Divisional Court setting forth the material facts and the grounds upon which the authority to appoint the commission or the authority of the commission to do the act or thing are questioned.

Order directing stated case

(2) If the commission refuses to state a case under subsection (1), the person requesting it may apply to the Divisional Court for an order directing the commission to state such a case.

Court to hear and determine stated case

(3) Where a case is stated under this section, the Divisional Court shall hear and determine in a summary manner the question raised.

Proceedings stayed

(4) Pending the decision of the Divisional Court on a case stated under this section, no further proceedings shall be taken by the commission with respect to the subject-matter of the stated case but it may continue its inquiry into matters not in issue in the stated case. 1971, c. 49, s. 6.

PART II

Power to summon witnesses, papers, etc.

7.—(1) A commission may require any person by summons,

(*a*) to give evidence on oath or affirmation at an inquiry; or

(*b*) to produce in evidence at an inquiry such documents and things as the commission may specify,

relevant to the subject-matter of the inquiry and not inadmissible in evidence at the inquiry under section 11.

Form and service of summons

(2) A summons issued under subsection (1) shall be in Form 1 and shall be served personally on the person summoned and he shall be paid at the time of service the like fees and allowances for his attendance as a witness before the commission as are paid for the attendance of a witness summoned to attend before the Supreme Court. 1971, c. 49, s. 7.

Stated case for contempt for failure to attend hearing, etc.

8. Where any person without lawful excuse,

(*a*) on being duly summoned under section 7 as a witness at an inquiry, makes default in attending at the inquiry; or

(*b*) being in attendance as a witness at an inquiry, refuses to take an oath or to make an affirmation legally required by the commission to be taken or made, or to produce any document or thing in his power or control legally required by the commission to be produced to it, or to answer any question to which the commission may legally require an answer; or

(*c*) does any other thing that would, if the commission had been a court of law having power to commit for contempt, have been contempt of that court,

the commission may state a case to the Divisional Court setting out the facts and that court may, on the application of the commission or of the Attorney General, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defense, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1971, c. 49, s. 8; 1972, c. 1, s. 9 (7).

Protection of witnesses

9.—(1) A witness at an inquiry shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence.

Right to object under R.S.C. 1970, c. E-10

(2) A witness shall be informed by the commission of his right to object to answer any question under section 5 of the *Canada Evidence Act*. 1971, c. 49, s. 9.

Unsworn evidence admissible

10. A commission may admit at an inquiry evidence not given under oath or affirmation. 1971, c. 49, s. 10.

Privilege

11. Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence. 1971, c. 49, s. 11.

Release of documents

12.—(1) Documents and things produced in evidence at an inquiry shall, upon request of the person who produced them or the person entitled thereto, be released to him by the commission within a reasonable time.

Photocopies of documents

(2) Where a document has been produced in evidence before a commission, the commission may or the person producing it may with the leave of the commission, cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a document purporting to be a copy of a document produced in evidence, certified to be a true copy thereof by the commission, is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced. 1971, c. 49, s. 12.

Power to administer oaths and require evidence under oath

13. A commission has power to administer oaths and affirmations for the purpose of an inquiry and may require evidence before it to be given under oath or affirmation. 1971, c. 49, s. 13.

Powers of each of two or more commissioners

14. Where two or more persons are appointed to make an inquiry, any one of them may exercise the powers conferred by section 7, 12 or 13. 1971, c. 49, s. 14.

PART III

Application of Part III

15.—(1) This Part does not apply to an inquiry unless the Lieutenant Governor in Council declares that this Part does apply thereto.

Idem

(2) The Lieutenant Governor in Council may, if he is satisfied that it is necessary to achieve the purposes of an inquiry, in the order in council authorizing the issue of the commission for the inquiry, or by a subsequent order in council, declare that this Part applies to the inquiry and to the commission conducting it. 1971, c. 49, s. 15.

Warrant for apprehension of witness

16.—(1) Upon proof to the satisfaction of a judge of a county or district court of the service of a summons to appear at an inquiry upon a person and that,

(*a*) such person has failed to attend or to remain in attendance at the inquiry in accordance with the the requirements of the summons;

(*b*) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and

(*c*) his presence is material to achievement of the purposes of the inquiry,

the judge may, by his warrant in Form 2 directed to any sheriff, police officer or constable, cause such person to be apprehended anywhere within Ontario and forthwith to be brought before the commission conducting the inquiry and to be detained in custody as the judge may order until his presence as a witness before the inquiry is no longer required, or, in the discretion of the judge, to be released on a recognizance, with or without sureties, conditioned for appearance to give evidence.

Idem (2) An application under subsection (1) may be made by the commission conducting the inquiry and the service of the summons and payment or tender of fees and allowances may be proved by affidavit. 1971, c. 49, s. 16.

Appointment of investigators **17.**—(1) A commission may in writing appoint a person to make an investigation relevant to the subject-matter of the inquiry it is conducting.

Search warrant (2) Where a judge of the county or district court is satisfied upon an *ex parte* application by a person appointed by a commission to make an investigation under this section,

(*a*) that the commission conducting the inquiry has appointed the applicant to make an investigation under this section; and

(*b*) that there are reasonable grounds for believing that there are in any building, receptacle or place, including a dwelling house, in the county or district for which the judge is appointed any documents or things relevant to the subject matter of the inquiry,

the judge may issue a warrant in Form 3 authorizing the person making the investigation, together with such police officers and constables as he calls upon to assist him, to enter and search if necessary by force, such building, receptacle or place, for such documents or things.

Removal of documents (3) A person making an investigation under this section may, upon giving a receipt therefor, remove any document or thing found in his investigation relevant to the subject matter of the inquiry and deliver it to the commission which shall keep custody of it.

Release of documents, etc.

(4) Documents and things delivered to a commission by a person appointed to make an investigation under this section shall upon request of the person from whose custody they were removed or the person entitled thereto be released to him by the commission within a reasonable time.

Photocopies

(5) Where a document has been delivered to a commission by a person making an investigation under this section, the commission may cause the document to be photocopied and the photocopy may be filed in evidence in place of the document delivered to the commission and a copy of such document certified by the commission to be a true copy thereof, is admissible in evidence in proceedings in which the document so delivered is admissible, as evidence of the document so delivered. 1971, c. 49, s. 17.

Powers re inquiries under other Acts powers of commission under Part II

18. Where, for the purpose of an investigation, inquiry or matter under any Act or regulation, any person or body is given the powers of or that may be conferred on a commissioner under *The Public Inquiries Act,* being chapter 379 of the Revised Statutes of Ontario, 1970, or the powers of a court in civil cases, such person or body may exercise the powers of a commission under Part II of this Act, which Part applies to such investigation, inquiry or matter as if it were an inquiry under this Act. 1971, c. 49, s. 18, *revised*.

FORM 1

(*Section 7*)

SUMMONS TO WITNESS

RE:

TO:

You are hereby summoned and required to attend before the .....(*name of commission*) at an inquiry conducted by the said commission to be held at..... in the.....of.....on .....day, the.....day of....., 19.... at the hour of.....o'clock in the.....noon (*local time*) and so from day to day until the inquiry is concluded or the commission otherwise orders, to give evidence on oath touching the matters in question in the inquiry and to bring with you and produce at such time and place..... ....

Dated this.....day of....., 19....

.....(Name of Commission)

.....
Commissioner

NOTE:

You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.

If you fail to attend and give evidence at the inquiry, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court of Ontario in the same manner as if for contempt of that Court for disobedience to a subpoena.

1971, c. 49, Form 1.

FORM 2

(*Section 16*)

BENCH WARRANT

RE:

TO: *A.B.*, Sheriff, etc.

WHEREAS proof has been made before me that *C.D.* was duly summoned to appear before (*name of commission*)..... at the inquiry being conducted by the said commission at Toronto (*or as the case may be*) on the.....day of....., 19....; that the presence of the said *C.D.* is material to achievement of the purposes of the inquiry, and that the said *C.D.* has failed to attend in accordance with the requirements of the summons.

THESE ARE therefore to command you to take the said *C.D.* to bring and have him before the said commission at Toronto (*or as the case may be*) there to testify what he may know concerning the matters in question in the said inquiry, and that you detain him in your custody until he has given his evidence or until the sittings of the said inquiry have ended or until other orders may be made concerning him.

GIVEN UNDER MY HAND this.....day of....., 19...., at.....

.....
Judge.

1971, c. 49, Form 2.

FORM 3

(*Section 17*)

SEARCH WARRANT

RE:

To: *A.B.* (*investigator*) and to such police officers and constables as he calls upon to assist him:

WHEREAS it appears on the oath of.....of the.....of .....in the.....of..... that there are reasonable grounds for believing that (*describe things to be searched for and the inquiry in respect of which search is to be made*) are in .....at.....(*hereinafter called the premises*);

This is, therefore, to authorize and require you between the hours of (*as the judge may direct*) to enter into the said premises and to search for the said things and to bring them before *E.F.*, the commission conducting the said inquiry.

GIVEN UNDER MY HAND this.....day of....., 19...., at .....

.....
Judge.

1971, c. 49, Form 3.

CHAPTER 412

Public Institutions Inspection Act

Interpretation

1. In this Act,

(*a*) "judge" means a county or district court judge;

(*b*) "panel" means the public institutions inspection panel. 1974, c. 64, s. 1.

Convening of public institutions inspection panel

2.—(1) The judge of every county or district shall, on the first Monday in May and November in each year, or so soon thereafter as is practicable, convene in open court a public institutions inspection panel composed of seven persons selected from the jury roll prepared under the *Juries Act* for the county or district and for this purpose the sheriff shall provide the panel.

R.S.O. 1980, c. 226

Application of R.S.O. 1980, c. 226

(2) The *Juries Act* applies to the selection, recording, summoning, attendance and service of the persons for service on a public institutions inspection panel in the same manner as to the selection, recording, summoning, attendance and service of persons for service on a panel of jurors selected for a sittings of a court.

Service counts as jury service

(3) Payment of fees to a member of a panel shall be deemed to be payment of fees to a person for attending sittings of a court as a juror for the purposes of subsection 3 (3) of the *Juries Act*.

Chairman

(4) The panel shall appoint one of its members to be the chairman of the panel.

Duty of judge

(5) The judge shall instruct the panel in its duties and powers. 1974, c. 64, s. 2.

Excusing from duty

3.—(1) The judge may excuse any person summoned to serve on a panel from attending on grounds of illness or hardship.

Exclusion for interest

(2) The judge may exclude any person summoned to serve on the panel or excuse a panel member from participating in any inspection where the judge believes that the duty

of the person under this Act is or may be in conflict with another interest of such person.

Reduced panel

(3) Where, after the panel is convened, any person on the panel dies or becomes incapacitated from any cause or is excluded or excused from serving by the judge under subsection (1) or (2), the judge may authorize the remainder of the panel to proceed with its duties under this Act. 1974, c. 64, s. 3.

Duties of panel

4.—(1) The panel may inspect all or any of the institutions in the county or district that are maintained in whole or in part by public money.

Lock-ups

(2) The panel shall inspect all institutions in the county or district in which persons are being held in custody for the purpose of a judicial proceeding.

Report

(3) Every panel that makes such an inspection shall prepare a report indicating the conditions found to be existing in each of the institutions inspected and with respect to institutions referred to in subsection (2) indicating whether any persons are being held therein improperly or for an unreasonable length of time.

Time for completion

(4) The inspections shall be completed within two weeks after the panel is convened but the judge may extend the time for completion of the inspection and during such period of extension the inspection is subject to the control and direction of the judge. 1974, c. 64, s. 4.

Powers of inspection

5.—(1) Subject to any agreement between the chairman and the institution, the panel may, after a request for entry by the chairman, enter any public institution the panel is entitled to inspect under section 4 at any time during reasonable business hours and may inspect therein all parts of the premises, and any documents, records, files or accounts in the custody of the institution, and the panel or any member thereof may interrogate any person on the premises concerning any matter respecting the affairs, administration and operation of the institution.

Offence

(2) Any person who wilfully obstructs an inspection by a panel or any member thereof under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than $5,000 or to imprisonment for a term of not more than one year, or to both. 1974, c. 64, s. 5.

Delivery of report

6.—(1) The panel shall submit its report to the judge sitting in open court.

(2) The judge to whom a report is submitted shall forward a copy of the report to the Attorney General. Distribution of report

(3) The report submitted to the judge shall be filed with the clerk of the county or district court as a public document and shall be available for public inspection. 1974, c. 64, s. 6. Filing of report

7. The Lieutenant Governor in Council may make regulations prescribing the fees and allowances payable to members of panels and providing for reimbursement for expenses. 1974, c. 64, s. 7. Regulations

CHAPTER 413

Public Lands Act

1. In this Act, Interpretation

(*a*) "mines and minerals" includes gold, silver, copper, lead, iron and other mines and minerals, and quarries, and beds of stone, marble or gypsum;

(*b*) "Minister" means the Minister of Natural Resources;

(*c*) "Ministry" means the Ministry of Natural Resources;

(*d*) "public lands" includes lands heretofore designated as Crown lands, school lands and clergy lands;

(*e*) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 380, s. 1; 1972, c. 4, s. 12.

PART I

MINISTRY OF NATURAL RESOURCES

2. The Minister shall have charge of the management, sale and disposition of the public lands and forests. 1972, c. 29, s. 1. Function of Minister

3. Where 25 per cent or more of the frontage of lands fronting on a body of water are public lands, lands comprising at least 25 per cent of the frontage and to such depth as the Minister considers appropriate shall be set apart for recreational and access purposes and, where less than 25 per cent of the frontage of lands fronting on a body of water are public lands, all public lands fronting thereon and to such depth as the Minister considers appropriate shall be set apart for such purposes. R.S.O. 1970, c. 380, s. 3. Public reserves

4. The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary to carry out the provisions of this Act, or to meet cases for which no provision is made by this Act. R.S.O. 1970, c. 380, s. 7. Power to make regulations

Appointment of officers and agents

5. The Lieutenant Governor in Council may appoint such officers and agents to carry out this Act and the regulations as the Lieutenant Governor in Council considers necessary. R.S.O. 1970, c. 380, s. 8.

Exercise of powers

6. The powers conferred on the Minister by this Act shall be exercised subject to the regulations and they may also be exercised by the Lieutenant Governor in Council. R.S.O. 1970, c. 380, s. 9.

Surveys and annulments

7.—(1) The Minister may cause any public lands to be surveyed or subdivided and he may annul in whole or in part any survey or subdivision made under this section or a predecessor of this section.

Amended plans

(2) Where a plan of survey or subdivision made under subsection (1) or a predecessor of subsection (1) has been or is lodged with the proper land registrar and the Minister annuls in whole or in part the survey or subdivision, the Minister shall cause an amended plan to be lodged with such land registrar. R.S.O. 1970, c. 380, s. 11 (1, 2).

Substitution of letters patent

(3) Where letters patent have been issued for any land that is affected by an annulment under subsection (1), the Minister shall cause the letters patent to be cancelled and letters patent containing a revised description of the land to be issued in their stead and letters patent heretofore or hereafter so issued shall,

(*a*) relate back to the date of the letters patent so cancelled;

(*b*) have the same effect as if issued at the date of such cancelled letters patent; and

(*c*) have the effect of amending, with necessary modifications, every instrument made prior to the date of such cancelled letters patent by the patentee or any person claiming through or under him. 1972, c. 29, s. 2.

Altering and amending plan

8.—(1) Where in any instrument, including a Crown grant, there is a description of a township lot or any part of a township lot and by reason of an error in the original survey of the boundaries of any lake, river or stream the whole or part of which is situate in or flows through the township or by reason of no survey of such boundaries having been made in the original survey of the township the boundaries of such lot or part do not approximate the boundaries of such lot or

part as established by a resurvey of the township or any part thereof, the Minister may cause an altering and amending plan to be prepared by an Ontario land surveyor.

Manner of preparation

(2) Every altering and amending plan shall conform as nearly as may be to a plan of subdivision under section 144 of the *Land Titles Act* or section 73 of the *Registry Act*, as the case may be, except that it shall be signed by the Surveyor General or his deputy on behalf of all persons having an interest in the land shown thereon.

R.S.O. 1980, cc. 230, 445

Hearing, etc.

(3) When an altering and amending plan has been prepared, the Minister shall send a print of the plan by registered mail to each person appearing to have an interest therein, whereupon the provisions of section 48 of the *Surveys Act* with respect to notice, hearing and confirmation apply with necessary modifications.

R.S.O. 1980, c. 493

Boundaries confirmed

(4) An altering and amending plan, when confirmed by the Minister pursuant to subsection (3), shall be registered in the proper land registry office, whereupon the boundaries of the lots or blocks shown thereon shall be deemed to be the true boundaries of such lots or blocks.

Procedure in land registry office

(5) Where an altering and amending plan has been registered in a land registry office for a land titles division, the registers for the parcels affected shall be amended accordingly.

Idem

(6) Where an altering and amending plan has been registered in a land registry office for a registry division, the land registrar shall keep an index of the land described and designated by any number or letter on the plan by the name by which it is so designated and every instrument affecting the land or any part thereof, executed after the plan is registered, shall conform and refer thereto, otherwise it shall not be registered except in cases provided for by section 80 of the *Registry Act*.

Costs and expenses

(7) The costs and expenses of and incidental to the preparation and registration of an altering and amending plan shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 380, s. 12, *revised*.

Where survey required

9.—(1) Where an application to purchase public lands that are open for sale but are not surveyed is received, the Surveyor General may require the applicant to have a survey made and to bear the cost thereof, or he may fix the survey fee to be paid by the applicant, and upon payment of the survey fee the Surveyor General shall cause the lands to be surveyed.

Idem

(2) The requirements of subsection (1) are additional to the payment of the sale price of the lands. R.S.O. 1970, c. 380, s. 13.

GRANTS, SALES, LICENCES OF OCCUPATION, ETC.

Appropriation for certain public purposes and free grants thereof made

10.—(1) The Lieutenant Governor in Council may set apart and appropriate such of the public lands as the Lieutenant Governor in Council considers expedient for roads and for the sites of wharves or piers, market places, jails, court houses, public parks or gardens, town halls, hospitals, places of public worship, burying grounds, schools, and for purposes of agricultural exhibitions, and for other like public purposes, and for model or industrial farms; and may make free grants for such purposes, and the trusts and uses to which they are to be subject shall be expressed in the letters patent; but no grants shall be for more than four hectares in any one case, and for any one of such purposes, except for a model or industrial farm, in which case the grant shall not be for more than forty hectares. R.S.O. 1970, c. 380, s. 14 (1); 1978, c. 87, s. 30 (1).

Revocation

(2) The Lieutenant Governor in Council at any time before the issue of the letters patent may revoke any such appropriation. R.S.O. 1970, c. 380, s. 14 (2).

Public lands set apart for research

11.—(1) The Lieutenant Governor in Council may set apart areas of public lands for any purpose that will benefit research in, and the management, utilization and administration of, the public lands and forests.

Small boat anchorages

(2) The whole or part of any area of public lands covered with water that is set apart for the purposes of a harbour under subsection (1) shall border on public lands not covered with water and such lands or such part thereof as is considered proper shall be set apart concurrently with the public lands covered with water. R.S.O. 1970, c. 380, s. 15.

Zoning plans

12.—(1) For the purpose of the management of public lands, the Minister may from time to time establish classes of zones, such as "Open", "Deferred", "Closed" or otherwise as he considers proper, may define the purposes for which public lands of each class may be administered, may cause areas of public lands to be laid down on maps or plans and may designate such areas as zones, and any area of public lands so designated shall be administered only for the purposes defined for the designated class of zone. R.S.O. 1970, c. 380, s. 16 (1); 1972, c. 29, s. 3.

Plan of subdivision may be required

(2) The Minister may designate areas in which the public lands are not open for disposition as summer resort locations

until a plan of subdivision of the lands to be disposed of is registered under the *Land Titles Act* or the *Registry Act*. R.S.O. 1970, c. 380, s. 16 (2). R.S.O. 1980, cc. 230, 445

13.—(1) The Minister may designate any area in territory without municipal organization as a restricted area, and he may issue permits for the erection of buildings or structures or the making of improvements on lands in any such area on such terms and conditions in any case as he considers proper. R.S.O. 1970, c. 380, s. 17 (1). Restricted areas

(2) Except under the authority of a permit issued under this Act, no person shall erect or cause to be erected any building or structure or make or cause to be made any improvement on any lands in any area in territory without municipal organization that is designated by the Minister as a restricted area. Permits

(3) Every person who erects or causes to be erected a building or structure or makes or causes to be made any improvement on lands in an area designated by the Minister as a restricted area without a permit therefor and every person who contravenes or causes to be contravened any term or condition of a permit issued under this section is guilty of an offence and on conviction is liable to a fine of not more than $500. 1971, c. 46, s. 1. Offences

(4) This section does not apply to the erection of buildings or structures or the making of improvements on lands for the purpose of the exploration or development of mines, minerals or mining rights. R.S.O. 1970, c. 380, s. 17 (4). Exception, mines, etc.

14.—(1) The Lieutenant Governor in Council may make regulations, Regulations re sale or lease of public lands

(*a*) prohibiting or regulating and controlling the sale or lease of public lands for any specified purpose or use, other than agricultural purposes, and fixing the prices or rentals and the terms and conditions of sale or lease;

(*b*) fixing the periods for which the Minister may extend the time for performance of a term or condition of a sale or lease under subsection 22 (2) and prescribing the fee therefor.

(2) The Minister may fix such terms and conditions of sale or lease as he considers proper in addition to those required under subsection (1). Terms and conditions of sale or lease

Idem

(3) Any regulation made under subsection (1) may be made applicable to any part of Ontario and may for the purposes of subsection (1) define any term used therein.

Sale by tender or auction

(4) The Minister may, whether or not the consideration has been fixed by the regulations, dispose of public lands by tender or by auction upon such terms and conditions as he considers proper.

Subsequent sale or lease

(5) Where public lands offered for sale or lease by tender or auction are not disposed of, the Minister may at any time thereafter sell or lease any such lands at such price or rental and upon such terms and conditions as he considers proper.

Reservation of trees and minerals

(6) In every sale or other disposition of public lands for summer resort locations there shall be reserved to the Crown all mines and minerals thereon or thereunder, and the instrument of sale or other disposition shall so provide. R.S.O. 1970, c. 380, s. 18.

Sale, etc., of public lands not otherwise provided for

15. Where the sale or lease of any public lands is not otherwise provided for in this or any other Act or the regulations, the Minister may direct the sale or lease of any such public lands at such price or rental and upon such terms and conditions as he considers proper, but no such sale or lease shall be made of parcels of more than five hectares, and in the case of a sale at less than $24.70 a hectare and in the case of a lease at less than $12.35 a hectare per annum, without the approval of the Lieutenant Governor in Council. R.S.O. 1970, c. 380, s. 19; 1972, c. 29, s. 4; 1978, c. 87, s. 30 (2).

Quit claim of public lands to person in possession

16. Where a person has been in actual possession of public lands by himself or through his predecessors for more than sixty years, the Minister may cause a quit claim to be issued to such person in respect of such lands at such price and upon such terms and conditions as he considers proper. R.S.O. 1970, c. 380, s. 20.

Land use conditions

17.—(1) Letters patent for land sold or leased under this Act may contain a condition that the land is to be used in a particular manner or a condition that the land is not to be used in a particular manner and every such condition shall be deemed to be annexed to the land.

Where condition violated

(2) Where land has been or is being used in violation of a condition in the letters patent, the Minister may apply by way of originating notice of motion to the judge of the county or district court of the county or district in which the land is situate for an order forfeiting the land to the Crown and for possession of the land, and the judge, upon

proof to his satisfaction that the land has been or is being used in violation of the condition, shall make an order declaring that, upon registration of the order under subsection (4), the land is forfeit to the Crown and requiring any person in possession of the land to deliver up possession of the land to the Minister or to any person authorized by the Minister to receive possession of it.

Idem (3) An order made under subsection (2) has the same force as a writ of possession and the sheriff or bailiff or person to whom it is entrusted for execution shall execute it in like manner as he would a writ of possession in an action for the recovery of land.

Idem (4) A certified copy of an order made under subsection (2) shall be registered in the proper land registry office and, upon registration, the land is vested in the Crown and may be granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario. R.S.O. 1970, c. 380, s. 21.

Release of land use conditions **18.** Where land has been sold or leased under this Act and the letters patent therefor contain a condition that the land is to be used in a particular manner or a condition that the land is not to be used in a particular manner, the Minister may, upon such terms and conditions as he considers proper, make an order releasing the land or any part thereof from the condition or any part thereof contained in the letters patent. R.S.O. 1970, c. 380, s. 22.

Licences of occupation **19.**—(1) The Minister may issue under his hand and seal a licence of occupation to any person who has purchased, or is permitted to occupy, or is entrusted with the care or protection of any public lands or who has received or been located on any public lands as a free grant.

Effect of licence of occupation (2) Such person or his assigns may take possession of and occupy the land for which the licence is issued, subject to the conditions of the licence, and may under it, unless it has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he could under letters patent from the Crown.

As evidence (3) The licence of occupation is *prima facie* evidence of the right to possession by such person and his assigns of the land, but has no force against a licence to cut pine trees existing at the time of its issue or where the pine trees are reserved to the Crown against a licence to cut such trees then existing or thereafter issued. R.S.O. 1970, c. 380, s. 23.

Easements

20. The Minister may grant easements in or over public lands for any purpose. R.S.O. 1970, c. 380, s. 24.

Minister to decide as to right to patent

21. The Minister has authority to determine all questions that arise as to the rights of persons claiming to be entitled to letters patent of land located or sold under this Act and his decision is final and conclusive. R.S.O. 1970, c. 380, s. 25.

Cancellation of sale, etc., of land in case of fraud or error, etc.

22.—(1) If the Minister is satisfied that a purchaser, locatee or lessee of public lands, or any person claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, location or lease, or of the licence of occupation, he may cancel such sale, location, lease or licence, and resume the land and dispose of it as if the same had never been made, and upon such cancellation all moneys paid in respect of such sale, location or lease remain the property of the Crown and the improvements, if any, on the land are forfeited to the Crown.

Extension of time

(2) The Minister may, upon payment of the prescribed fee, extend the time for the performance of any condition of a sale or lease for such period as is fixed by the regulations. R.S.O. 1970, c. 380, s. 26.

Interpretation

23.—(1) In this section, "lands" means public lands and includes public lands covered with water.

Mode of obtaining possession of public lands

(2) Where a person refuses or neglects to deliver up possession of any lands after the revocation, cancellation or expiration of the sale or lease thereof or of a licence of occupation or other document under which he was permitted to occupy or was entrusted with the care or protection of the lands, or where a person is in possession or occupation of lands without lawful authority and refuses or neglects to vacate or abandon possession or occupation of the same, the Minister may apply by way of originating notice of motion to a judge of the county or district court of the county or district in which any part of the lands is situate for an order for possession, and the judge, upon proof to his satisfaction that the right or title of the person to hold the lands has been revoked or cancelled or has expired, or that the person is in possession or occupation of the lands without lawful authority, shall make an order requiring him to deliver up the lands to the Minister.

Idem

(3) Where a person is in possession or occupation of lands without lawful authority and upon fifteen days notice by the Minister to vacate or abandon possession or occupation of the same, or to remove therefrom any building, structure or thing, refuses or neglects to do so, the Minister may by his warrant require such person to deliver up the lands to the

person named in the warrant and he may by his warrant authorize any person to remove such first-mentioned person from the land or any building, structure or improvement therefrom.

Building or thing remaining on lands

(4) Any building or thing remaining on lands after the revocation, cancellation or expiration of the sale or lease of the lands or of a licence of occupation or other document under which a person was permitted to occupy or was entrusted with the care or protection of the lands or any building or thing on lands possessed or occupied without lawful authority is the property of the Crown and may be sold, disposed of or destroyed under the direction of the Minister.

Effect of order or warrant

(5) The order or warrant has the same force as a writ of possession, and the sheriff or bailiff or person to whom it is entrusted for execution shall execute it in like manner as he would a writ of possession in an action for the recovery of land.

Officer's right to demand assistance, etc.

(6) The sheriff, bailiff or other person executing the order or warrant may take with him all necessary assistance and has the right to demand such assistance in the same manner as a constable or other peace officer in the execution of his duty.

Person removed may be again removed

(7) If a person who has given up possession of or has been removed from any land under the authority of this section again returns to or enters upon it, the order or warrant is a sufficient authority to the officer or person named in it again to remove such person from the land, and the power of removal may be exercised under such order or warrant from time to time and as often as occasion requires.

Offence

(8) Every person who refuses to obey any such order or warrant, or who resists, obstructs or interferes with any person executing it, or who again returns to the land, is guilty of an offence and on conviction is liable to a fine of not less than $20 and not more than $100 and to imprisonment for a term of not more than six months. R.S.O. 1970, c. 380, s. 27.

Penalty for unlawfully taking possession of public lands and erecting buildings, etc.

24.—(1) Any person who enters into possession of public lands without lawful authority and erects any building or structure or makes any improvements thereon is liable to a penalty of an amount equal to twice the market value of the public land so entered as determined by the Minister.

Recovery of penalty

(2) A penalty imposed under subsection (1) is recoverable at the suit of the Minister in any court of competent jurisdiction.

Idem

(3) If a person fails to pay a penalty imposed upon him under subsection (1) and the Minister brings an action for the recovery of the penalty, it is the duty of the court,

(*a*) to determine whether such person is liable to a penalty under subsection (1);

(*b*) if it is determined that the person is liable to a penalty, to confirm or vary the amount thereof claimed by the Minister;

(*c*) to give such judgment as it considers proper; and

(*d*) to make such order as to costs or otherwise as it considers proper.

Saving

(4) Nothing in this section limits or in any way affects any right or remedy of the Minister or the Crown at common law or under any statute. R.S.O. 1970, c. 380, s. 28.

Penalty for unauthorized filling in, etc., of public lands

25. Every person who without the written consent of the Minister or an officer authorized by the Minister throws or deposits or causes to be deposited any material, substance or thing upon public lands whether or not covered with water or ice, or both, is guilty of an offence and on conviction is liable to a fine of not more than $500. 1971, c. 46, s. 2.

Unauthorized occupation, etc., of posted public lands

26.—(1) The Ministry may cause to be erected on any public lands, including a road under the jurisdiction of the Minister, signs prohibiting, controlling or governing,

(*a*) the possession, occupation or any use or uses thereof; or

(*b*) the parking of vehicles thereon. 1971, c. 46, s. 3, *part*; 1972, c. 1, s. 1.

Offences

(2) Every person who possesses, occupies or uses any public lands on which signs have been erected under clause (1) (*a*) in contravention of any such sign, or who parks a vehicle on public lands on which signs have been erected under clause (1) (*b*) in contravention of any such sign, and who has had a reasonable opportunity of seeing any of such signs, is guilty of an offence and on conviction is liable to a fine of not more than $500. 1971, c. 46, s. 3, *part*.

Restraint on alienation of rights in unpatented lands

27.—(1) Except with the consent in writing of the Minister, public lands that have been purchased under this Part shall

not, before the issue of letters patent, be alienated, mortgaged, or charged, either voluntarily or involuntarily, except by devise or sale under the authority of any Act of the Legislature relating to taxation or statute labour.

Lands not to be liable for debts incurred before patent

(2) Except by mortgage or charge thereon made in favour of the Crown, neither the land nor any interest or right therein is, before the issue of letters patent, liable for the satisfaction of any debt or liability contracted or incurred by such purchaser, his widow, heirs or devisees. R.S.O. 1970, c. 380, s. 31.

Issue of distress warrant, or action for rent in arrear

28. Where rent payable to the Crown on a lease of public lands is in arrear, the Minister or an agent or officer appointed under this Act and authorized by the Minister to act in such cases may issue a warrant, directed to any person named in it, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last-mentioned cases; or an action may be brought in the name of the Minister for the recovery of the arrears, but a demand of the rent is not necessary in any case. R.S.O. 1970, c. 380, s. 32.

Grants or letters patent issued after death of grantee or patentee

29. A grant or letters patent issued to or in the name of a person who is dead is not therefore void, but the title to the land thereby granted or intended to be granted vests in the heirs, assigns, devisees or other legal representatives of the deceased person according to the laws in force in Ontario as if the grant or letters patent had issued to or in the name of the deceased person during his lifetime. R.S.O. 1970, c. 380, s. 33.

Cancellation of erroneous letters patent

30.—(1) Where letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer or a wrong description of the land intended to be granted, the Minister, if there is no adverse claim, may direct the defective letters patent to be cancelled and corrected letters patent to be issued in their stead.

Effect of corrected letters patent

(2) Corrected letters patent heretofore or hereafter issued shall,

(*a*) relate back to the date of the defective letters patent cancelled pursuant to subsection (1);

(*b*) have the same effect as if issued at the date of the defective letters patent cancelled pursuant to subsection (1); and

(*c*) have the effect of correcting, with necessary modifications, every instrument made prior to the date of such corrected letters patent by the patentee or any person claiming through or under him.

Land registered under R.S.O. 1980, c. 230

(3) The powers conferred by subsection (1) may be exercised notwithstanding that the land has been registered under the *Land Titles Act*. 1971, c. 46, s. 4.

Compensation in case of double or inconsistent grants

31. Where grants or letters patent for the same land inconsistent with each other have been issued through error, or where sales or appropriations of the land inconsistent with each other have been made, the Minister may, in cases of sale, cause a repayment of the purchase money, with interest to be made to the person damnified, or where the land has passed from the original purchaser, or has been improved before discovery of the error, or where the original grant or appropriation was a free grant, he may in substitution appropriate land or give a certificate entitling the person damnified to public lands, of such value and to such extent as the Minister considers just; but no claim shall be entertained unless it is made within five years from the discovery of the error. R.S.O. 1970, c. 380, s. 35; 1972, c. 29, s. 5.

Compensation for deficiency of land

32.—(1) Where by reason of erroneous survey or of error in the books or plans in the Ministry any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the letters patent therefor, the Minister may direct that the purchase money of so much land as is deficient, with interest thereon from the time of the application for a refund or if the land has passed from the original purchaser, the Minister may direct that the purchase money that the claimant, if he was ignorant of the deficiency at the time of his purchase, paid for so much of the land as is deficient, with interest thereon from the time of the application for a refund, be paid to him in land or money, as the Minister may direct. R.S.O. 1970, c. 380, s. 36 (1); 1972, c. 1, s. 1.

Case of free grants

(2) In the case of a free grant, the Minister may direct a grant to be made of other land equal in value to so much of the land intended to be granted as is deficient, as a free grant.

Limitations

(3) No claim shall be entertained unless it is made within five years from the date of the letters patent, or unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the land granted. R.S.O. 1970, c. 380, s. 36 (2, 3).

Registration of judgments

33. If letters patent for land are repealed or avoided in a judicial proceeding, the judgment shall be registered in the proper land registry office. R.S.O. 1970, c. 380, s. 37.

Reduction in the price of lands sold

34.—(1) The Minister may reduce the price of any public lands sold by the Crown before the 23rd day of June, 1942, where it appears that the land was sold at a price beyond its fair value, and that the price or part of it remains unpaid, but the reduction shall not exceed the amount that remains unpaid.

Abatement of interest

(2) The Minister may also make such abatement as he considers just of the arrears of interest upon the unpaid purchase money of any public lands sold by the Crown before the 23rd day of June, 1942.

Inspection of lands

(3) Before any such reduction or abatement is made, the land shall be examined and valued by an inspector appointed for that purpose by the Minister.

Persons entitled to a reduction

(4) The reduction and abatement shall be confined to cases in which the purchaser from the Crown or some person claiming under him is in occupation of the land and is an actual settler on it or on land adjacent to it.

Reduction in case of school lands not to affect share of Quebec

(5) In the case of school lands, such reductions and abatements shall be made only in respect of, and in proportion to, the share or interest of Ontario in the lands and the price thereof, and do not extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof. R.S.O. 1970, c. 380, s. 38.

Annual list to assessment commissioners

R.S.O. 1980, c. 31

35. The Minister shall in the month of February in every year transmit to each assessment commissioner appointed under the *Assessment Act* a list of all lands in the assessment region patented, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a licence of occupation was issued during the next preceding calendar year and a list of the cancellations of any licence of occupation, sale, lease, location or appropriation of land in the assessment region during the next preceding calendar year. 1972, c. 29, s. 6.

Interpretation

36.—(1) In this section, "Crown grant" means a grant of a freehold or leasehold interest in unpatented public lands or of an easement in or over unpatented public lands made under this or any other Act.

Crown grants registered in land registry office

R.S.O. 1980, c. 230

(2) Where a Crown grant is made of public lands situate in a part of the Province to which the *Land Titles Act*

applies, the Minister shall cause to be forwarded to the proper land registrar the intrument by which the Crown grant is made, together with a copy thereof.

Idem

(3) Where a Crown grant is made of public lands, other than lands to which subsection (2) applies, the Minister shall cause to be forwarded to the land registrar of the registry division in which the lands are situate the instrument by which the Crown grant is made, together with a copy thereof.

Orders, grants of minerals registered in land registry offices

1922, c. 24

(4) Notwithstanding subsections (2) and (3), where an order is made under subsection 55 (5) or a grant of mineral rights is made under *The Canada Company's Lands Act, 1922*, the Minister shall cause such order or the instrument by which the Crown grant is made, as the case may be, together with a copy thereof, to be forwarded to the land registrar in whose office the land affected is registered.

Registration in land registry office

(5) Notwithstanding subsections (2) and (3), where an instrument affecting any public lands has been registered in a land registry office and a Crown grant of the public lands is made, the Minister shall cause the instrument by which the Crown grant is made to be forwarded for registration and he may determine whether it shall be registered under the *Land Titles Act* or the *Registry Act*. R.S.O. 1970, c. 380, s. 40 (1-5), *revised*.

R.S.O. 1980, cc. 230, 445

Registration

(6) Upon receipt of an instrument and the copy thereof under subsection (2), (3), (4) or (5), the land registrar shall, without fee or other charge, register the instrument, note particulars of registration on the copy and forward the copy to the grantee at the address furnished by the Ministry. R.S.O. 1970, c. 380, s. 40 (6); 1972, c. 1, s. 1.

How Ministry employees may acquire public lands

37. No person holding an office in or under the Ministry and no person employed in or under the Ministry shall, directly or indirectly, purchase any right, title or interest in any public lands either in his own name or by the interposition of any other person or in the name of any other person in trust for himself without the approval of the Lieutenant Governor in Council. R.S.O. 1970, c. 380, s. 41; 1972, c. 1, s. 1.

How notices may be given

38. Where by law or by any deed, lease or agreement relating to any public lands any notice is required to be given, or any act to be done, by or on behalf of the Crown, the notice may be given and the act may be done by the Minister or the Deputy Minister of Natural Resources or by a person acting under the authority of either of them. R.S.O. 1970, c. 380, s. 42; 1972, c. 4, s. 12.

Sale, etc., of public lands covered with water

39. The Minister may grant a lease or issue a licence of occupation in respect of any public lands covered with water at such rent or fee and upon such terms and conditions as he considers proper or as are prescribed by the regulations, or, with the approval of the Lieutenant Governor in Council, the Minister may sell any such lands at such price and upon such terms and conditions as he considers proper. R.S.O. 1970, c. 380, s. 45.

Sale of water powers and privileges

40.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister in his discretion may fix the terms and conditions upon which water powers or privileges granted by the Crown and any public lands necessary for the development thereof may be leased or developed.

Agreements, etc., to be signed by Minister

(2) The Minister may sign all agreements, leases, licences, renewals or other writings relating to water powers or privileges or any public lands necessary for the development thereof. 1972, c. 29, s. 7.

Grant of forfeited land to former owner R.S.O. 1980, c. 399

41. Where any land forfeited to and vested in the Crown under the *Provincial Land Tax Act* has not been granted, sold, leased or otherwise disposed of, the Minister may direct the issuance of letters patent granting the land to the owner thereof at the time of such forfeiture, or to any person appearing to have had an interest therein at that time, or to the heirs, successors or assigns of such owner or person, upon such terms as the Minister considers just. R.S.O. 1970, c. 380, s. 46.

Beach management agreements

42. The Minister and any municipality may enter into agreements respecting the control and management by the municipality of any public lands comprised of beaches or lands covered with water in the municipality or elsewhere, but, where the public lands are in another municipality, no agreement shall be entered into without the consent of that municipality, and any such agreement may provide for the granting of leases by the municipality and the sharing of the rents therefrom. R.S.O. 1970, c. 380, s. 47.

Public Agricultural Lands Committee

43.—(1) There shall be a committee to be known as the Public Agricultural Lands Committee consisting of a chairman and such member or members as the Minister considers appropriate.

Appointment

(2) Subject to the approval of the Lieutenant Governor in Council, the chairman and members of the Committee shall be appointed by the Minister.

Duty

(3) It is the duty of the Committee,

(*a*) to recommend to the Minister areas of lands that are suitable for sale or other disposition for agricultural purposes and measures for the development of such areas;

(*b*) to consider applications to acquire lands for agricultural purposes in any such area and all matters relevant thereto and to make recommendations to the Minister with respect thereto.

Sale, etc., of lands for agricultural purposes

(4) After having considered the recommendations of the Committee with respect thereto, the Minister may,

(*a*) designate areas of lands that are suitable for sale or other disposition for agricultural purposes; and

(*b*) enter into agreements for the sale or other disposition of such lands for agricultural purposes to such persons, at such prices or rentals and subject to such terms and conditions as he may determine.

Letters patent qualified

(5) Every agreement, licence and letters patent for land sold or otherwise disposed of under this section shall contain a condition that the land is to be used for agricultural purposes. R.S.O. 1970, c. 380, s. 48.

Acquisition of lands R.S.O. 1980, c. 279

44.—(1) Lands may be acquired under the *Ministry of Government Services Act* for any forestry, agricultural or other program of the Ministry, and any lands so acquired shall be deemed to be public lands within the meaning of this Act. R.S.O. 1970, c. 380, s. 49 (1); 1972, c. 1, s. 1; 1973, c. 2, s. 2.

Agreements for works, etc.

(2) The Minister or the Minister of Government Services may enter into agreements with the owners of lands respecting the erection, maintenance and operation thereon of a public work within the meaning of the *Ministry of Government Services Act*. R.S.O. 1970, c. 380, s. 49 (2); 1973, c. 2, s. 2.

Registration of agreements

(3) An agreement entered into under subsection (2) may be registered in the proper land registry office and thereupon such agreement is binding upon every subsequent owner and mortgagee of the lands during the term of the agreement. R.S.O. 1970, c. 380, s. 49 (3).

PART II

ROADS ON PUBLIC LANDS

Interpretation

45. In this Part,

(*a*) "private forest road" means a road occupied under the authority of a document issued under this Act or the regulations;

(*b*) "public forest road" means a road, other than a private forest road, that is designated by the Minister as a public forest road;

(*c*) "road" means a road or part of a road on public lands and includes the bridges, shoulders, ditches and right-of-way thereof, but does not include the King's Highway or a secondary highway, a tertiary road, a resource road or an industrial road designated under the *Public Transportation and Highway Improvement Act*, or a road under the jurisdiction of a statute labour board or a local roads board. R.S.O. 1970, c. 380, s. 50; 1971, c. 61, s. 1.

R.S.O. 1980, c. 421

Public right of passage

46. Except as otherwise provided in this Act, any person may exercise a public right of passage on a road other than a private forest road. 1975, c. 65, s. 1.

No liability for damages

47.—(1) No civil action shall be brought against the Crown or any person in respect of misfeasance, non-feasance or negligence in connection with the construction, maintenance, repair or closing of a road.

Exception

(2) Subsection (1) does not apply to an action based on a contract between the parties to the action for the construction, maintenance or use of a road. R.S.O. 1970, c. 380, s. 52.

Public forest roads

48.—(1) The Minister may designate a road other than a private forest road as a public forest road.

R.S.O. 1980, c. 446, not to apply

(2) The *Regulations Act* does not apply to a designation made under subsection (1). R.S.O. 1970, c. 380, s. 53.

Closure of public forest roads

49.—(1) The district manager of the administrative district of the Ministry in which a public forest road is situate may, from time to time in his discretion and for such period or periods as he may determine, close the public forest road or part thereof to travel by the public generally or by any class or classes of the public or by the public generally with the exception of persons operating any class or classes of vehicles

used for hauling forest products or other products designated by the regulations. R.S.O. 1970, c. 380, s. 54 (1); 1972, c. 1, s. 1.

Methods of closure

(2) A closing of a public forest road under subsection (1) may be effected by the erection of signs or barricades. R.S.O. 1970, c. 380, s. 54 (2).

Barricades

(3) Where a district manager closes a public forest road or part of a public forest road under subsection (1) by the erection of barricades, he shall cause to be erected at each end of the public forest road or part so closed and at each intersection thereof with any other road a barricade upon which a red or flashing amber light visible for a distance of 150 metres shall be exposed and kept burning or operating continuously from sunset until sunrise, and at such ends and intersections shall cause to be erected a notice that the public forest road is closed. R.S.O. 1970, c. 380, s. 54 (3); 1978, c. 87, s. 30 (3).

Permits

(4) Notwithstanding the closure of a public forest road, the district manager may grant a permit for travel on the public forest road subject to such terms and conditions as he considers advisable.

Offence

(5) Every person who, without lawful authority, travels on a public forest road that has been closed to travel by him under subsection (1) and who has had a reasonable opportunity of knowing that the road has been so closed or who removes or defaces any barricade, light or notice erected thereon by lawful authority is guilty of an offence and on conviction is liable to a fine of not more than $500 and is also liable to the Crown in right of Ontario for any damage or injury occasioned by such wrongful use, removal or defacement. R.S.O. 1970, c. 380, s. 54 (4, 5).

Partial closure

50. Where the district manager closes a public forest road to the public generally with the exception of persons operating vehicles used for hauling forest products or other products designated by the regulations, sections 62, 91, 92, 93, 94 and 97 of the *Highway Traffic Act* do not apply to the public forest road or to vehicles operated on the public forest road, as the case may be. R.S.O. 1970, c. 380, s. 55.

R.S.O. 1980, c. 198

Private forest roads

51.—(1) Except as provided in subsection (2), a private forest road is not open to travel by the public. R.S.O. 1970, c. 380, s. 56 (1).

Agreements

(2) The Minister may enter into an agreement with a person who occupies a private forest road under the authority of a document issued under this Act or the regulations for opening the private forest road or part thereof to travel by the public generally or by any class or classes of the public as may be agreed upon, and thereupon the

private forest road is open to travel by the public generally or by the class or classes of the public agreed upon for such time or times and upon such terms and conditions as are set forth in the agreement, provided that a permit has been issued or validated under the *Highway Traffic Act* or the regulations made thereunder for any vehicle used in such travel. 1975, c. 65, s. 2.

R.S.O. 1980, c. 198

(3) Without limiting the generality of subsection (2), an agreement may provide that the cost of constructing, reconstructing or maintaining a private forest road shall be shared in the proportions agreed upon.

Idem

(4) Notwithstanding the use of a private forest road by the public or a class or classes thereof under subsection (2), a private forest road remains a private forest road and is not a highway within the meaning of the *Highway Traffic Act*, but the provisions of the *Occupational Health and Safety Act* and the regulations made thereunder that apply to haul roads apply with necessary modifications to the private forest road. R.S.O. 1970, c. 380, s. 56 (3, 4).

Status of road

R.S.O. 1980, c. 321

(5) Where an agreement has been made under subsection (2), the district manager of the administrative district of the Ministry in which the private forest road is situate may, from time to time in his discretion and for such period or periods as he may determine, close the private forest road or part thereof to travel by the public generally or by any class or classes of the public with the exception of persons operating any class or classes of vehicle used for hauling forest products or other products designated by the regulations, and thereupon section 49 applies with necessary modifications. R.S.O. 1970, c. 380, s. 56 (5); 1972, c. 1, s. 1.

Closure of private forest roads

52. The Lieutenant Governor in Council may make regulations designating products for the purposes of sections 49, 50 and 51. R.S.O. 1970, c. 380, s. 57.

Regulations

PART III

PROVISIONS OF GENERAL APPLICATION

53. Where land was, before the 29th day of March, 1961, sold under Part I of *The Public Lands Act*, being chapter 324 of the Revised Statutes of Ontario, 1960, or located under Part II of that Act, the Minister may direct the issue of letters patent to the purchaser or locatee or any person claiming under or through the purchaser or locatee,

Issue of patents

(*a*) who has built a house on the land that is fit for habitation;

(*b*) who has resided on the land or other land of which he is the registered owner that is distant not more than eight kilometres from the land so sold or located for one or more periods totalling at least three years;

(*c*) who, in respect of land in the Territorial District of Cochrane or in the Territorial District of Timiskaming, has cleared and cultivated at least seven hectares of the land or who, in respect of land, other than land in the Territorial District of Cochrane or in the Territorial District of Timiskaming, has cleared and cultivated at least 10 per cent of the land; and

(*d*) who pays the balance of the purchase price of the land and the interest thereon. R.S.O. 1970, c. 380, s. 58; 1978, c. 87, s. 30 (4).

Reservation of trees

54.—(1) All trees on land that has been disposed of under this Act for agricultural purposes remain the property of the Crown until the issuance of letters patent, whereupon the property in such trees passes to the patentee.

Cutting rights of settlers before patent

(2) During the time the trees on land that has been disposed of under this Act for agricultural purposes remain the property of the Crown, the purchaser or locatee of such land or anyone claiming under him may cut and use all such trees as are necessary for building on and fencing such land, and he may cut and dispose of all such trees required to be removed in clearing the land for cultivation, but no trees except those necessary for such building and fencing shall be cut beyond the limit of the actual clearing without the consent in writing of an officer authorized by the Minister for the purpose.

Payment of Crown dues

(3) All trees cut under subsection (2) and sold or bartered are subject to the payment of the same charges as are at the time payable by the holders of licences to cut timber, unless the Minister otherwise directs in writing.

Revocation of timber licences on settlers' land

(4) Where land is disposed of under this Act for agricultural purposes and a licence to cut timber on such land is subsisting at the time the disposition is made, the licence shall be deemed to be revoked in respect of such land, and in any such case the Minister may compensate the holder of such licence by granting him a licence to cut timber elsewhere. R.S.O. 1970, c. 380, s. 59.

Property in trees vested in patentee

55.—(1) Where land is disposed of under this Act for agricultural purposes, the property in all trees thereon shall be deemed to have passed to the patentee by the letters patent, and every reservation of any class or kind of tree contained in the letters patent shall be deemed to be void.

(2) A reservation of all timber and trees or any class or kind of tree contained in letters patent granting public lands disposed of under this or any other Act for a summer resort location is void. Reservations of trees voided

(3) A reservation of all timber and trees or any class or kind of tree contained in letters patent dated on or before the 1st day of April, 1869 and granting public lands disposed of under this or any other Act is void. Idem

(4) Subsections (2) and (3) do not affect the rights of the holder of a licence under the *Crown Timber Act* subsisting on the 26th day of June, 1970. R.S.O. 1970, c. 380, s. 60 (1-4). Exception R.S.O. 1980, c. 109

(5) Where public lands have been disposed of by the Crown under this or any other Act and some but not all of the species of trees thereon have been reserved to the Crown and are not under timber licence, the Minister may, if the lands comprise not more than eighty hectares, or, if the lands comprise more than eighty hectares, the Minister may, with the approval of the Lieutenant Governor in Council, acquire any species of trees not so reserved or release any species of trees so reserved at such price and upon such terms and conditions as he considers proper. R.S.O. 1970, c. 380, s. 60 (5); 1978, c. 87, s. 30 (5). Release of trees reserved, etc.

56. In sections 54 and 55, the expression "this Act" includes any predecessor of this Act. R.S.O. 1970, c. 380, s. 61. Interpretation

57. In any letters patent issued for lands located or sold under this Act for agricultural purposes on or after the 1st day of April, 1957, the mines and minerals shall be reserved to the Crown. R.S.O. 1970, c. 380, s. 62. Reservation of mines and minerals

58.—(1) In the case of land patented before the 6th day of May, 1913, the mines and minerals therein shall be deemed to have passed to the patentee by the letters patent, and every reservation thereof contained in the letters patent or by statute is void. Mines and minerals on certain lands to be deemed to have passed to patentee

(2) Subsection (1) does not apply where, Exception as to application of subs. (1)

(*a*) the mines and minerals or any of them in any land have been alienated or disposed of under the *Mining Act* or any predecessor of that Act; R.S.O. 1980, c. 268

(*b*) the mines or minerals or any of them have reverted or may hereafter revert to the Crown through abandonment, cancellation, forfeiture or otherwise.

Lands patented after May 6th, 1913

(3) In the case of lands patented after the 6th day of May, 1913, mines and minerals pass to the patentee unless expressly reserved by the letters patent. R.S.O. 1970, c. 380, s. 63 (1-3).

Certificate

(4) The Minister or the Deputy Minister of Natural Resources may issue a certificate as to the issue of letters patent with respect to any lands, mines or minerals affected by this section and every such certificate shall be received and recorded in the proper land registry office. R.S.O. 1970, c. 380, s. 63 (4); 1972, c. 4, s. 12.

Fee for certificate

(5) An applicant for a certificate under subsection (4) shall pay a fee of $5 for every such certificate. R.S.O. 1970, c. 380, s. 63 (5).

Ores, etc., to be treated in Canada

59.—(1) All lands patented or otherwise disposed of under this Act after the 12th day of April, 1917, are subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined in Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the patent or other form of title of such lands is void, and the lands revert to and become vested in the Crown, freed and discharged of any interest or claim of every other person.

Easements

(2) Where a dominant tenement reverts to and becomes vested in the Crown under subsection (1), any easement appurtenant thereto passes to the Crown and, where a servient tenement reverts to and becomes vested in the Crown, any easement to which the servient tenement is subject is not affected.

Power to exempt lands

(3) The Lieutenant Governor in Council is hereby authorized to exempt any lands from the operation of this section for such period of time as the Lieutenant Governor in Council considers proper. R.S.O. 1970, c. 380, s. 64.

Travel on beaches

60. Any part of the public lands that is a beach and is used for travel by the public is not by reason only of such use a highway within the meaning of any Act. R.S.O. 1970, c. 380, s. 65.

Surface rights in roads, etc.

61.—(1) Unless the Minister otherwise directs, every patent, lease or licence of occupation issued under this Act shall contain a provision to the effect that the surface rights in any public or colonization road or any highway crossing the land granted, leased or licensed are excepted therefrom.

Idem

(2) Every patent, lease or licence of occupation issued under this Act shall reserve to the Crown such percentage, if any, of the surface rights of the land as the Minister considers necessary for road purposes.

(3) Where in any patent, lease or licence of occupation heretofore issued under this Act or any predecessor thereof there is a reservation of a percentage of the land for road purposes and the rights with respect thereto have not been exercised before the 1st day of May, 1963, the reservation shall be deemed to be a reservation of the surface rights only. R.S.O. 1970, c. 380, s. 66.

Right to make roads reserved in sales, etc.

62.—(1) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, there shall be reserved to the Crown the right to construct on the land any colonization or other road or any road in lieu of or partly deviating from an allowance for road without making compensation therefor, and such right whether or not it is expressly reserved from the sale, location, lease, licence of occupation, mining claim or other disposition of the land or by the letters patent when issued shall be deemed to be so reserved.

Right to take wood, gravel, etc., for roads

(2) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, where the letters patent have been issued containing a reservation of any of the area for roads, wood, gravel and other materials required for the construction or improvement of any colonization or other road or of any road in lieu of or partly deviating from an allowance for road, may be taken from the land without making compensation therefor or for the injury thereby done to the land from which they are taken, and where the letters patent have been issued without a reservation being made of any of the area for roads, wood, gravel and other materials required for the purposes hereinbefore mentioned may be taken from the land, but compensation shall be paid as provided by the *Expropriations Act*. R.S.O. 1980, c. 148

Minister or person authorized by him may exercise rights

(3) The rights mentioned in subsections (1) and (2) may be exercised by the Minister or by any person authorized by him to exercise them on behalf of the Crown.

Right of passage over portages

(4) Where public lands over which a portage has existed or exists have been heretofore or are hereafter sold or otherwise disposed of under this or any other Act, any person travelling on waters connected by the portage has the right to pass over and along the portage with his effects without the permission of or payment to the owner of the lands, and any person who obstructs, hinders, delays or interferes with the exercise of such right of passage is guilty of an offence and on conviction is liable to a fine of not more than $100. R.S.O. 1970, c. 380, s. 67.

Release of road reservations

63.—(1) Where letters patent have issued for land that is in a municipality and the Minister is of opinion that the present and future needs of the locality as to roads are adequately provided for, he may, upon application of the owner of the land or any part thereof and upon payment of a fee of $25, make an order releasing and discharging the land or part from any reservation relating to roads mentioned in section 62 or in the letters patent.

Release of access reservation

(2) Where letters patent have issued for land that is in a municipality and contain a reservation of the right of access to the shores of all rivers, streams and lakes for all vessels, boats and persons, and the Minister is of the opinion that the reservation no longer serves a useful purpose or that the release of the reservation is in the public interest, he may, upon application of the owner of the land or any part thereof and upon payment of a fee of $25, make an order releasing and discharging the land or part thereof from the reservation.

Registration of orders

(3) Any order made under subsection (1) or (2) may be registered in the proper land registry office. R.S.O. 1970, c. 380, s. 68.

Reservation of water power on public lands

64. In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands, or mining lands or mining rights, the Minister may reserve from sale any water power or privilege, and such area of land in connection therewith as he considers necessary for the erection of buildings and plant and the development and utilization of the power, together with the right to lay out and use such roads as may be necessary for passage to and from such water power or privilege and land. R.S.O. 1970, c. 380, s. 69.

Building conditions in patents voided

65. Where letters patent have issued granting summer resort lands subject to the conditions that the patentee shall within eighteen months from the date of the patent expend not less than $300 in the construction of buildings or of other improvements and that no building or other construction shall be erected unless the plan and description thereof have been approved by the Minister, such conditions shall be deemed to be void and of no effect. R.S.O. 1970, c. 380, s. 70.

Certificate

66.—(1) The Minister may issue a certificate as to any condition, proviso or reservation that is void by statute.

Fee for certificate

(2) An applicant for a certificate under subsection (1) shall pay a fee of $15 for every such certificate. R.S.O. 1970, c. 380, s. 71.

67.—(1) In this section, "lot" includes block, parcel or any other designation given to an area of land. R.S.O. 1970, c. 380, s. 72 (1). Interpretation

(2) Subject to subsection (6), where public lands that have been disposed of by the Crown under this or any other Act are surveyed, subdivided and shown as lots on a plan to be deposited, filed or registered under any Act and the plan is signed by or on behalf of the owner of the land shown on the plan within five years of the issue of the letters patent granting the land, one-quarter in area of all the lots shown on the plan become the property of and are vested in the Crown and are public lands within the meaning of this Act upon the depositing, filing or registration of the plan. R.S.O. 1970, c. 380, s. 72 (2); 1978, c. 87, s. 30 (6) (*a*). Right of Crown to one-quarter of lots

(3) In cases under subsection (2), the Minister may make such selection of the lots on the plan as he and the person by whom the plan is to be registered agree upon, or the Minister may first select one lot and such person shall then select three lots and so on in turn, the Minister selecting one and such person three until the division is made. R.S.O. 1970, c. 380, s. 72 (3). Manner of selection

(4) The selection made under subsection (3) shall comprise as nearly as may be one-quarter in area of all the lots on the plan, and, for the purpose of subsection (2), the selection so made shall be deemed to comprise one-quarter in area of such lots. R.S.O. 1970, c. 380, s. 72 (4); 1978, c. 87, s. 30 (6) (*b*). Selection made deemed to be one-quarter of lots

(5) In cases under subsection (3), there shall be endorsed on the plan a certificate of the Minister in the following words or in words of like effect: Certificate of Minister as to selection

I hereby certify that, pursuant to subsection 67 (3) of the *Public Lands Act*, I have selected .....

.....from all the lots on this plan.
(*lots*)

Dated at Toronto, this.....day of.....,
19....

.....
Minister of Natural Resources

R.S.O. 1970, c. 380, s. 72 (5); 1972, c. 4, s. 12.

(6) The Minister, with the approval of the Lieutenant Governor in Council, may accept a money payment in lieu of Commutation

one-quarter in area of all the lots on the plan. R.S.O. 1970, c. 380, s. 72 (6); 1978, c. 87, s. 30 (6) (*c*).

Certificate of Minister as to money payment

(7) In cases under subsection (6), there shall be endorsed on the plan a certificate of the Minister in the following words or in words of like effect:

Pursuant to subsection 67 (6) of the *Public Lands Act*, the Lieutenant Governor in Council by order-in-council No. .....

....., dated the.....day

of.....; 19...., has approved the acceptance of a money payment in lieu of one-quarter in area of all lots on this plan.

Dated at Toronto, this.....day of.....,

19....

.....
Minister of Natural Resources

R.S.O. 1970, c. 380, s. 72 (7); 1972, c. 4, s. 12; 1978, c. 87, s. 30 (6) (*d*).

Approval of plan

(8) No plan to which this section applies shall be deposited, filed or registered until the Minister has approved the plan and, in approving such a plan, regard shall be had to the price paid to the Crown for the land, the purpose for which the land was purchased from the Crown, the purpose for which the land is being subdivided and such other matters as the Minister considers advisable in the public interest and in granting approval the Minister may impose such conditions as in his opinion are advisable.

Condition precedent to registration

(9) No plan to which this section applies and no instrument referring thereto shall be deposited, filed or registered in any land registry office until a certificate under subsection (5) or (7) and the approval of the Minister under subsection (8) are endorsed on the plan.

Entry of Crown as owner

(10) In cases under subsection (3), the land registrar shall, upon registration of the plan, enter Her Majesty the Queen in right of Ontario as the owner of the lots mentioned in the certificate endorsed thereon.

Mines and minerals

(11) Nothing in this section affects any right in mines or minerals. R.S.O. 1970, c. 380, s. 72 (8-11).

PART IV

CONSTRUCTION OF DAMS

Interpretation

68. In this Part, "dam" includes a channel, diversion, dock, groyne, light, pier, slide, warning device, wharf or work for the control and regulation of water and any building, road, structure, service or temporary installation necessary or incidental thereto. 1971, c. 46, s. 5, *part*.

Construction

69. The Minister may design, construct, renovate, service, maintain, repair, furnish, equip, manage and administer dams. 1971, c. 46, s. 5, *part*.

Acquisition of land R.S.O. 1980, c. 279

70. Land or any interest therein may be acquired or expropriated under the *Ministry of Government Services Act* for the purpose of this Part. 1971, c. 46, s. 5, *part*; 1973, c. 2, s. 2.

Agreements

71. The Minister may enter into any contract or agreement that he considers advisable to effect the purposes of this Part. 1971, c. 46, s. 5, *part*.

Power to enter and use

72.—(1) In the event of emergency, as declared by the Lieutenant Governor in Council, respecting the safety of persons or the protection or preservation of public or private property, the Minister or any person authorized by him, may, without the consent of the owner,

(*a*) enter upon and use any land;

(*b*) alter in any manner any natural or artificial feature of any land;

(*c*) construct and use roads on, to and from any land;

(*d*) construct and use all necessary sidings, water pipes, conduits or tracks in, over or upon any land; or

(*e*) place upon or remove from any land any substance or structure.

Compensation R.S.O. 1980, c. 148

(2) Any powers referred to in subsection (1) may be exercised immediately notwithstanding any provision of the *Expropriations Act* and without the filing of a plan and the owner of the land is entitled to compensation in the manner provided in that Act. 1971, c. 46, s. 5, *part*.

CHAPTER 414

Public Libraries Act

1. In this Act, Interpretation

(*a*) "board" in Part I means a public library board, in Part II means any board established under this Act or a predecessor of this Act, in Part III means a regional library system board and in Part IV means a county library board;

(*b*) "Minister" means the Minister of Culture and Recreation;

(*c*) "Ministry" means the Ministry of Culture and Recreation;

(*d*) "municipality" means a city, town, village, township or improvement district;

(*e*) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 381, s. 1; 1972, c. 1, s. 17 (1); 1973, c. 141, s. 1; O. Reg. 53/76.

PART I

PUBLIC LIBRARY SERVICE

2.—(1) Subject to subsections (2) and (3), every public library established under a predecessor of this Part that was being operated immediately before the 1st day of January, 1981 is continued subject to this Part. Public libraries continued

(2) Where a public library established before the 1st day of January, 1967 for a school section was being operated immediately before such date, the council of the municipality in which the public library of the school section is situate shall establish a public library, and, on the day the board for such public library is organized, the public library board of the school section is dissolved and its assets and liabilities become assets and liabilities of the public library board of the municipality. Public libraries established for school sections

(3) Where a public library established before the 1st day of January, 1967 for a police village was being operated immediately before such date, the council of the municipality in Public libraries established for police villages

which the public library of the police village is situate shall establish a public library, and, on the day the board for such public library is organized, the public library board of the police village is dissolved and its assets and liabilities become assets and liabilities of the public library board of the municipality, and, if the police village is situate in two or more municipalities, the public library established for the municipality shall be open to all persons who reside in the police village as if they resided in the municipality.

Public libraries in school sections in unorganized territory continued

(4) Every public library established before the 1st day of January, 1967 for a school section in territory without municipal organization that was being operated immediately before such date is continued until it is disestablished upon a petition signed by a majority of the public and separate school supporters in the school section filed with the secretary of the public school board of the school section, and, when so disestablished, the assets of the public library board shall be distributed as the Minister may direct. R.S.O. 1970, c. 381, s. 2.

Public libraries, establishment

3.—(1) The council of a municipality and the trustees of an improvement district may by by-law establish a public library.

Effective date

(2) A by-law passed in any year for the establishment of a public library becomes effective on the 1st day of January of the following year.

Board

(3) Every public library shall be under the management, regulation and control of a board, which is a corporation under the name of "The (*insert name of municipality*) Public Library Board". R.S.O. 1970, c. 381, s. 3.

Qualifications of members of board

4. A person is qualified to be appointed as a member of a board who,

(*a*) is a Canadian citizen;

(*b*) is of the full age of eighteen years;

(*c*) is resident in a municipality for which the board is established; and

(*d*) is not a member of any one of the bodies entitled to make an appointment to the board. R.S.O. 1970, c. 381, s. 4; 1971, c. 98, s. 4, Sched., par. 26.

Composition of board, in city, town or village of 10,000 or more population

5.—(1) The board of an urban municipality having a population of 10,000 or more shall be composed of the mayor or

reeve and three members appointed by the council, three members appointed by the public school board or board of education having jurisdiction in the municipality, and two members appointed by the separate school board, if any, for the municipality.

in township of 10,000 or more population

(2) The board of a township having a population of 10,000 or more shall be composed of the reeve of the township and three members appointed by the council, three members appointed by the public school board or board of education having jurisdiction in the township, and two members appointed by the separate school board, if any, having jurisdiction in the township.

Appointment where more than one board

(3) Where there is more than one board qualified to deal with public school affairs in a township or more than one separate school board having jurisdiction in a township, in each case, the board that is supported by the greatest amount of assessment in the township shall appoint the members to be appointed by the public school board, board of education or separate school board, as the case may be, under subsection (2).

Term of office

(4) Each member appointed by a council, public school board or board of education shall hold office for three years and each member appointed by a separate school board shall hold office for two years, provided that of the members first appointed by a council, public school board or board of education one member shall be appointed for one year, one member for two years and one member for three years, and of the members first appointed by a separate school board one member shall be appointed for one year and one member for two years, and every member shall continue to hold office until his successor is appointed.

Time for making appointments

(5) The first appointments of members of a new board shall be made at the last regular meeting of the appointing body in the year before the board is to be organized and the members shall take office on the 1st day of January in the following year, and thereafter appointments shall be made at the first meeting of the appointment body in each year, but if an appointing body fails to appoint a member at its first meeting, it shall make the appointment at its next regular meeting. R.S.O. 1970, c. 381, s. 5.

Composition of board in municipalities under 10,000 population

6. The board of a municipality having a population of less than 10,000 shall be composed of the mayor or reeve and four members appointed annually by the council, and every member shall continue to hold office until his successor is appointed. R.S.O. 1970, c. 381, s. 6.

Union public library

7.—(1) The councils of two or more municipalities may enter into agreement for the establishment of a union public library.

Agreement

(2) Any agreement under subsection (1) shall provide for the proportion of the cost of the establishment, operation and maintenance of the union public library, including the cost of existing libraries, that shall be borne by each municipality.

Union board

(3) Every union public library shall be under the management, regulation and control of a board, which is a corporation under the name of "The (*insert names of municipalities concerned*) Union Public Library Board".

Composition of board

(4) A union public library board shall be composed of such number of members appointed by the council of each municipality concerned for such term of office and in such manner as the agreement may provide. R.S.O. 1970, c. 381, s. 7 (1-4).

Qualifications of members

(5) All members of a union public library board who are not members of a municipal council shall be Canadian citizens, over eighteen years of age and residents of a municipality for which the union public library is established. R.S.O. 1970, c. 381, s. 7 (5); 1971, c. 98, s. 4, Sched., par. 26.

Dissolution of boards included in union

(6) When a union public library is established, the boards formerly established in the municipalities for which the union public library board is established are thereby dissolved, and the assets and liabilities of such boards are vested in and assumed by the union public library board. R.S.O. 1970, c. 381, s. 7 (6).

Vacancies, how filled

8. Vacancies in a board arising from death, resignation or otherwise shall be filled forthwith by the appointing body, and the person appointed to fill a vacancy shall hold office for the unexpired term of the person whose place has become vacant. R.S.O. 1970, c. 381, s. 8.

Vacancies by disqualification

9.—(1) If a member of a board is convicted of an indictable offence, or becomes mentally ill, or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be a resident within a municipality for which the board was established, he thereby vacates his seat, and the remaining members shall forthwith declare his seat vacant and notify the appointing body accordingly.

(2) Notwithstanding subsection (1), where a member of a board is convicted of an indictable offence, the vacancy shall not be filled until the time for taking any appeal that may be taken from the conviction has elapsed or until the final determination of any appeal so taken, and, in the event of the quashing of the conviction, the seat shall be deemed not to have been vacated. R.S.O. 1970, c. 381, s. 9. Proviso

10.—(1) Every board at its first meeting in each year shall elect one of its members as chairman. Chairman

(2) In the absence of the chairman from any meeting, the board may appoint one of its members as acting chairman for the meeting. R.S.O. 1970, c. 381, s. 11. Acting chairman

11.—(1) A board may appoint and remove such officers and servants as it considers necessary, determine the terms of their employment, fix their remuneration and prescribe their duties. Staff

(2) Every board shall appoint a secretary, who may also be the librarian and who shall, Secretary

(*a*) conduct the official correspondence for the board; and

(*b*) keep a full and correct record of the proceedings of every meeting of the board in a minute book provided for that purpose by the board, and ensure that the minutes when confirmed are signed by the presiding officer.

(3) Every board shall appoint a treasurer, who may also be the secretary or assistant secretary and who shall, Treasurer

(*a*) receive and account for all moneys of the board;

(*b*) open an account in the name of the board in a chartered bank approved by the board;

(*c*) deposit all moneys received by him on account of the board, and no other moneys, to the credit of such account or accounts; and

(*d*) disburse all moneys as directed by the board. R.S.O. 1970, c. 381, s. 12.

Regular meetings

12.—(1) Every board shall hold regular meetings at least once every month from February to June inclusive and from September to January inclusive and at such other times as it considers necessary.

Special meetings

(2) The chairman or any two members of a board may summon a special meeting of the board by giving at least two days notice in writing to each member, specifying the purpose for which the meeting is called.

Quorum

(3) The presence of a majority of all the members constituting a board is necessary for the transaction of business at any general or special meeting.

Voting

(4) The chairman or acting chairman of a board may vote with the other members of the board upon all questions, and any question on which there is an equality of votes shall be deemed to be negative. R.S.O. 1970, c. 381, s. 13.

Expenses

13. The members of a board shall serve without remuneration, but they shall be reimbursed by the board for proper travelling and other expenses incurred in carrying out their duties as members of the board. R.S.O. 1970, c. 381, s. 14.

Agreements for library service

14. Any public library board or regional or county library board may enter into agreements with any other such board or with a municipal council, school board, council of an Indian band or any person for providing any library service on such terms and conditions as may be agreed upon. R.S.O. 1970, c. 381, s. 15.

Real property

15.—(1) A board may acquire by purchase, lease or otherwise and may expropriate any land required for its purposes and may erect buildings thereon and make additions to or alterations of such buildings, and, with the consent of the council of the municipality or of a majority of the councils of the municipalities, where there are more than one, for which it was established, may sell, lease or otherwise dispose of any land or building when no longer required for such purposes.

Acquisition or erection of building larger than required

(2) A board, with the consent of the council or councils of the municipality or municipalities for which it was established, may acquire, or may erect on any land held by it, buildings larger than are required for library or branch library purposes, and may lease any parts of the buildings not so required.

Application of R.S.O. 1980, c. 148

(3) The *Expropriations Act* applies to the expropriation of land under subsection (1). R.S.O. 1970, c. 381, s. 16.

16. Every board, Powers and duties of board

(*a*) shall endeavour to provide in co-operation with other boards a comprehensive and efficient library service;

(*b*) shall ensure that every library under its charge is conducted in accordance with this Act and the regulations;

(*c*) shall fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept;

(*d*) shall transmit to the Minister all reports required by this Act and the regulations or requested by him;

(*e*) shall make provision for insuring the buildings and equipment owned by the board;

(*f*) shall operate a main library;

(*g*) shall take proper security for the treasurer or secretary-treasurer;

(*h*) may operate any number of branch libraries, reading rooms, mobile units, deposit stations, art galleries, museums, and film and other special services in connection with a library that it considers necessary; and

(*i*) may appoint such committees as it considers expedient. R.S.O. 1970, c. 381, s. 17.

17.—(1) Every board shall appoint one or more librarians who, Librarians, appointment

(*a*) in the case of a board in a municipality having a population of 10,000 or more, or in municipalities having a combined population of 10,000 or more, shall hold a certificate of librarianship issued by the Minister; and

(*b*) in the case of a board in a municipality having a population of less than 10,000, or in municipalities having a combined population of less than 10,000, shall hold a certificate of librarianship, or a certificate of library service, issued by the Minister.

Idem

(2) Where a board after reasonable effort is unable to employ a librarian under subsection (1), the board shall apply to the Minister for permission to employ an uncertificated person as a librarian.

Chief executive officer

(3) The chief librarian shall be the chief executive officer of the board. R.S.O. 1970, c. 381, s. 18.

Retirement allowances

18. A board may, with the approval of the council or councils of the municipality or municipalities for which it is established, grant an annual retirement allowance to an employee in accordance with section 100 of the *Municipal Act*, which section applies with necessary modifications. R.S.O. 1970, c. 381, s. 19.

R.S.O. 1980, c. 302

Pensions

19. A board, by resolution, may provide pensions for employees or any class thereof in the manner and subject to the conditions set out in paragraph 46 of section 208 of the *Municipal Act*, which paragraph applies with necessary modifications. R.S.O. 1970, c. 381, s. 20.

Sick leave credits

20. A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof in the manner and subject to the conditions set out in paragraph 47 of section 208 of the *Municipal Act,* which paragraph applies with necessary modifications. R.S.O. 1970, c. 381, s. 21.

Rules

21.—(1) Subject to the regulations, a board may make rules for the use of the library, reading rooms and museums and for the admission of the public thereto, and for regulating all other matters and things connected with the management of the library, reading rooms and of all property under its control, and may impose fines for breaches of the rules, not exceeding $25 for any offence.

Right to damages

(2) Nothing herein precludes the recovery of the value of articles or things damaged or the amount of damage sustained from persons liable for such articles or things.

Closing library for limited period

(3) Subject to the regulations, a board may close the library for a limited number of days when, in the opinion of the board, such closing is necessary or expedient, and the board may close the library for a period not exceeding three successive weeks at any time during the period between the 1st day of June and the 31st day of August in any year.

Permitting use of building

(4) A board may permit any part of its library buildings to be used for any educational or other lawful purposes that it considers proper. R.S.O. 1970, c. 381, s. 22.

Estimates

22.—(1) Every board in each year shall prepare and adopt and submit to the council of the municipality, or to each of the councils of the municipalities, for which the board was established, on or before such time as the council may prescribe, estimates of all sums required during the year for the purposes of the board, and such estimates,

(*a*) shall set forth the estimated revenues and expenditures of the board;

(*b*) shall make due allowance for a surplus of the previous year that will be available during the current year;

(*c*) shall provide for any deficit of any previous year; and

(*d*) may provide for capital expenditures to be made out of current funds.

Approval of estimates

(2) The amount of the estimates of the board that is approved by the council shall be paid to the board out of the moneys appropriated for the board in such amounts as may be requisitioned from time to time.

Where two or more municipalities concerned

(3) Where a board is established for two or more municipalities, the board shall submit with its estimates a statement as to the proportion thereof to be chargeable to each of the municipalities, and, if the estimates of the board are approved, or are amended and approved, by the councils of the municipalities representing more than one-half of the population of the area for which the board was established, the estimates as so approved are binding on all the municipalities in the area. R.S.O. 1970, c. 381, s. 23.

Debentures for library purposes

23.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a board for the purposes of acquiring a site or building or erecting or altering a building or, in the first instance, for acquiring books and other things required for a library, on the application of the board, may be raised by the issue of municipal debentures.

Application to council

(2) The application shall be made to the council or councils of the municipality or municipalities for which the board was established.

Council to deal with application

(3) The council or, if more than one, each of the councils applied to, at its first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove the application, and, if a vote in any council results in a tie, the application shall be deemed to be disapproved by the council.

Issue of debentures

(4) If the council, or a majority of the councils where there are more than one, approves the application, the council of the municipality or, where more than one, the council of the municipality having the greatest assessment shall raise the sum required by the issue of debentures in the manner provided by the *Municipal Act*, or, if it so desires, the council of any municipality may raise its proportion of the sum required by the issue of its own debentures.

R.S.O. 1980, c. 302

Submission of application to ratepayers

(5) If the council, or half or a majority of the councils where there are more than one, disapproves the application, the council or each of the councils on the request of the board shall submit the application to a vote of the electors of its municipality who are qualified under the *Municipal Act* to vote on money by-laws, in the manner provided in the *Municipal Act* in the case of a money by-law.

When vote to be held

(6) Unless the board otherwise agrees, such vote shall be held within ninety days of the receipt of the request therefor from the board.

When vote favourable

(7) If a majority of the votes cast throughout the area for which the board was established is in favour of the application, the council of the municipality in which the public library is or is to be situated shall raise the required sum by the issue of debentures in the manner provided in the *Municipal Act*. R.S.O. 1970, c. 381, s. 24.

Grants from municipal councils

24. The council of any municipality or county may make grants in money or lands or buildings to a board. R.S.O. 1970, c. 381, s. 25.

Inspection of records

25. Any person, at all reasonable times, may inspect any records, books, accounts and documents in the possession or under the control of the secretary of a board. R.S.O. 1970, c. 381, s. 26.

Libraries to be open to public

26. All public libraries operated by a board shall be open to the public free of charge, provided that the board may impose such fees as it considers proper for the use of any library service by any person who is not resident in the area in which the board has jurisdiction. R.S.O. 1970, c. 381, s. 27.

Free use of library services

27. Every board shall permit the public to have free use of the circulating and reference books and such other services of the library as it considers practicable, but the board may charge fees for such other services as it considers necessary. R.S.O. 1970, c. 381, s. 28.

Library of Indian band

28. Where the council of an Indian band establishes a public library, such library, if approved by the Minister, shall be deemed to be a public library established under this Part for the purposes of legislative grants. R.S.O. 1970, c. 381, s. 29.

PART II

PROVINCIAL LIBRARY SERVICE

Regulations

29. The Lieutenant Governor in Council may make regulations,

(*a*) providing for the apportionment and distribution of all moneys appropriated by the Legislature for library purposes;

(*b*) prescribing the conditions governing the payments of grants to boards;

(*c*) respecting the establishment, organization, management, accommodations and rules of public libraries;

(*d*) respecting the establishment, organization, management and courses of instruction of library schools, examinations of students, and providing for the issuance of certificates to students successful at library schools;

(*e*) governing the qualifications of librarians and assistants and library clerks in public libraries;

(*f*) governing the conduct of examinations and practical tests, and the determination of the results thereof;

(*g*) governing the granting of temporary, interim, special permanent and renewed certificates of qualification to librarians and assistants;

(*h*) prescribing the courses and examinations for the academic and professional training of librarians and assistants;

(*i*) providing for the suspension and cancellation of certificates of qualification granted by the Ministry;

(*j*) governing the management and organization of library institutes. R.S.O. 1970, c. 381, s. 30; 1972, c. 1, s. 1.

Withholding grant on default of board

30. Where a board in any year fails to comply with this Act or the regulations, the Minister may withhold the whole or any part of the legislative grant payable to the board for that year. R.S.O. 1970, c. 381, s. 31.

Director of Provincial Library Service

31. The Lieutenant Governor in Council may appoint an officer, to be known as the Director of Provincial Library Service, who shall, under the direction of the Minister, supervise the operation of this Act and promote and encourage the extension of library service throughout Ontario. R.S.O. 1970, c. 381, s. 32.

Ontario Provincial Library Council

32.—(1) There shall be a council, to be known as the Ontario Provincial Library Council, herein called the Council, composed of,

(*a*) nine members appointed by the Minister; and

(*b*) one member appointed by the board of each regional library system.

Term of office

(2) Of the members first appointed by the Minister, three members shall be appointed to hold office for two years and three members for four years, and thereafter members shall be appointed to hold office for six years.

Idem

(3) The members appointed by the boards of regional library systems shall hold office for one year. R.S.O. 1970, c. 381, s. 33.

Officers

33.—(1) The Council shall elect a chairman and a vice-chairman from among its members and may appoint such officers and servants, except a secretary, as it considers necessary.

Secretary

(2) The Director of Provincial Library Service shall be the secretary of the Council, but shall not vote on the matters of the Council.

Executive Committee

(3) The officers elected or appointed under this section and the secretary constitute the Executive Committee of the Council.

Committees

(4) The Council may appoint such other committees as it considers necessary. R.S.O. 1970, c. 381, s. 34.

Duties

34. The Council shall make recommendations to the Minister with respect to the development and co-ordination of library service in Ontario. R.S.O. 1970, c. 381, s. 35.

Meetings

35.—(1) The Council shall meet at least three times in each year at such times and places as the Executive Committee shall determine.

Expenses of members

(2) The members of the Council shall be reimbursed by the Council for proper travelling and other expenses incurred in carrying out their duties as members of the Council. R.S.O. 1970, c. 381, s. 36.

PART III

REGIONAL LIBRARY SERVICE

Regional library system, establishment

36. The Minister, upon receipt of a request from five or more public library boards, of which at least one has jurisdiction in a municipality having a population of 15,000 or more, to establish a regional library system to assist libraries within the region, may establish a regional library system and determine the boundaries of the region. R.S.O. 1970, c. 381, s. 37.

Region

37. The region for which a regional library system may be established shall have a population of at least 100,000 and shall include at least two territorial districts or counties, and the Minister may alter the boundaries of a region. R.S.O. 1970, c. 381, s. 38.

Regional library co-operatives deemed regional library systems

38. Each regional library co-operative established under a predecessor of this Act that was in existence immediately before the 1st day of January, 1967, shall be deemed to be a regional library system for the region in which it then had jurisdiction as it may be altered by the Minister. R.S.O. 1970, c. 381, s. 39.

Board, corporate name

39.—(1) Every regional library system shall be under the management, regulation and control of a board, which is a corporation under the name of "The Board of the (*insert name selected by the board and approved by the Minister*) Regional Library System".

Composition of board

(2) Every board shall be composed of,

(*a*) one member appointed by the public library board in each municipality having a population of 15,000 or more in the region;

(*b*) one member appointed by each county library board having jurisdiction in the region;

(*c*) if the number of members appointed under clauses (*a*) and (*b*) is less than nine, such number of members appointed by the Minister to the extent that the

number of members on the board will not exceed nine; and

(d) if the number of members appointed under clauses (a), (b) and (c) is less than nine, a number of members, not to exceed the number of members appointed under clause (a), elected by the other public library boards having jurisdiction in the region to the extent that the number of members on the board will not exceed nine.

Term of office

(3) A member of a board shall hold office until the 31st day of December of the year for which he is elected or appointed, except that the first members of a board shall hold office during the year in which the board is established and until the 31st day of December of the following year, but every member shall continue to hold office until his successor is elected or appointed.

Vacancies

(4) A board may appoint a person to fill a vacancy created by any means in the membership of the board, and the person so appointed shall hold office for the remainder of the term of his predecessor.

Maximum term

(5) A member who is appointed or elected to a board after the 1st day of January, 1967 shall not hold office for more than five consecutive years. R.S.O. 1970, c. 381, s. 40.

Director to arrange elections, etc.

40. The Director of Provincial Library Service shall arrange for elections and appointments to each board and shall call the first meeting of each board. R.S.O. 1970, c. 381, s. 41.

Duties of board

41. Every board shall endeavour to improve the standards of library service by providing a plan for co-ordinating and developing library service within the region, and shall submit each year a summary of such plan to the Ontario Provincial Library Council. R.S.O. 1970, c. 381, s. 42.

Power to raise sums for sites, etc.

42.—(1) One or more municipal councils within the region in which a board has jurisdiction may, at the request of the board and subject to the approval of the Ontario Municipal Board, raise the sums required by the board for the purpose of acquiring sites or purchasing, erecting or altering buildings.

Power to levy for library purposes

(2) A council of a municipality in which a board has jurisdiction may, at the request of the board, levy on the rateable property within the municipality a rate sufficient to provide a sum for library service in accordance with the terms of an agreement between the board and the council. R.S.O. 1970, c. 381, s. 43.

Powers of board

43. A board may,

(*a*) establish, separately or within one or more of the public libraries established in the region in which the board has jurisdiction, a collection of reference books and other items as the basis of a reference service for the region;

(*b*) promote inter-library loan of books and other means of furthering the efficiency and co-ordination of library service;

(*c*) establish a central service, and determine services that may be provided by one or more public library boards for other public library boards in the region, for,

(i) selecting, ordering, cataloguing, processing, circulating, storing and disposing of books, films and other materials,

(ii) providing an advisory service for the purpose of improving public library standards,

(iii) providing programs of an educational nature for adults,

(iv) providing programs of an educational nature for librarians and library assistants, and

(v) providing other similar services;

(*d*) charge fees for supplying any library service, and determine the unit cost of supplying each service;

(*e*) with the approval of the Minister, undertake responsibilities for providing inter-library loan of books and other services throughout Ontario; and

(*f*) appoint a regional director of library services, who,

(i) shall hold a Class A, B or C certificate of librarianship,

(ii) may be an employee of a public library board having jurisdiction in the region if that board agrees to the appointment, and

(iii) shall not be an employee of any other public library board. R.S.O. 1970, c. 381, s. 44.

Application of general provisions

44. Sections 8 to 11, 13 to 15, 17 to 21 and 24 to 27 apply with necessary modifications to every board of a regional library system. R.S.O. 1970, c. 381, s. 45.

PART IV

COUNTY LIBRARY SERVICE

County library, establishment

45.—(1) Where at least 75 per cent of the municipalities forming part of a county for municipal purposes request the county to establish a county library, the council of the county may by by-law establish a county library for all such municipalities.

Idem

(2) Where at least half of the municipalities forming part of a county for municipal purposes and having a combined population of at least 25,000 request the county to establish a county library, the council of the county may by by-law establish a county library for all the municipalities that so request.

Request for establishment

(3) No request of a local municipality for the establishment of a county library shall be acted on unless the request is authorized by a favourable vote of a majority of the members of the council of the local municipality.

Approval of Minister

(4) A by-law passed by the council of a county under this section is not effective until approved by the Minister and, when so approved, is effective on the 1st day of January of the year following unless otherwise provided in the by-law.

Dissolution of public library boards, etc.

(5) When a county library is established, every public library board and county library co-operative established for a municipality or any part thereof that is included in the area for which the county library is established is thereby dissolved, and the assets and liabilities of such boards are thereby vested in and assumed by the county library board unless otherwise provided in the by-law establishing the county library. R.S.O. 1970, c. 381, s. 46.

County library board

46.—(1) Every county library shall be under the management, regulation and control of a board, which is a corporation under the name of "The (*insert name of county*) County Library Board". R.S.O. 1970, c. 381, s. 47 (1).

Composition of board

(2) A county library board shall be composed of the warden of the county and six members appointed by the county council, three of whom shall be members of the county council who represent a local municipality in the area for which the county library was established and three of whom shall be

persons resident in a municipality in which the board has jurisdiction who are eighteen years of age and Canadian citizens and who are not members of the council. R.S.O. 1970, c. 381, s. 47(2); 1971, c. 98, s. 4, Sched., par. 26.

Term of office of members other than councillors

(3) The members of the board who are not members of the county council shall hold office for three years, except that, when appointments are made to a newly-established board, one member shall be appointed for one year, one member for two years and one member for three years.

Appointments

(4) The council of the county shall make such appointments at the first meeting of council in each year.

Term of office

(5) Each member shall hold office until his successor is appointed.

First meeting

(6) The first meeting of a newly-established board shall be called by the clerk of the county forthwith after the members of the board have been appointed. R.S.O. 1970, c. 381, s. 47 (3-6).

Application of general provisions

47. Sections 8 to 21 and 24 to 27 apply with necessary modifications to every county library board. R.S.O. 1970, c. 381, s. 48.

Branch libraries

48. Every county library board shall operate and maintain a library as a branch in each local municipality that operated a public library prior to the date upon which that municipality became part of the county library system. R.S.O. 1970, c. 381, s. 49.

Librarian

49. Every board shall appoint a librarian who shall,

(*a*) hold a Class A, B or C certificate of librarianship issued by the Minister;

(*b*) be the chief executive officer of the board; and

(*c*) attend the meetings of the board or designate a person to represent him. R.S.O. 1970, c. 381, s. 50.

County library rate

50.—(1) The council of a county in which a county library has been established may by by-law provide for the levying of a rate, upon the equalized assessment of the municipalities that form part of the county for municipal purposes and that are in the area in which the county library board has jurisdiction, sufficient to meet the amount estimated by the board to meet its operating costs, as approved by the council, and such rate shall form part of the county rates for such municipalities.

Accommodation may be provided by local municipality

(2) Where such rate in any year is not sufficient for the purpose of providing accommodation for branch libraries, the council of one or more municipalities may, at the request of the board, rent accommodation to the board and may, subject to the approval of the Ontario Municipal Board, issue municipal debentures for the cost of constructing buildings for the purposes of the board, but the ownership thereof shall remain with the municipal corporation. R.S.O. 1970, c. 381, s. 51.

County library co-operatives continued

51.—(1) Every county library co-operative board established under a predecessor of this Act that was in existence immediately before the 1st day of January, 1967 is, subject to subsection (2), continued with the same powers and duties.

When dissolved

(2) Where a county library co-operative has jurisdiction in an area for which a county library is established, the county library co-operative is dissolved, and its assets and liabilities become assets and liabilities of the county library board.

Composition of board

(3) The board of a county library co-operative shall be composed of the warden of the county and six members appointed annually by the county council, three of whom shall be members of the county council. R.S.O. 1970, c. 381, s. 52.

CHAPTER 415

Public Officers Act

Public officer to be British subject

1. No person shall be employed in any public office in Ontario who is not a British subject by birth or naturalization, but nothing in this section prevents the employment of any person for a temporary purpose by the Government of Ontario or by any commission acting for or on behalf of the Crown, when in the opinion of the Government or of such commission such employment is in the public interest. R.S.O. 1970, c. 382, s. 1.

Commissions continued on demise of the Sovereign

2.—(1) It is not necessary, upon the demise of the Sovereign, to renew any commission, by virtue whereof any public officer or functionary in Ontario held his office or profession, during the previous reign, but a proclamation shall be issued by the Lieutenant Governor, authorizing all persons in office who held commissions under the late Sovereign and all functionaries who exercised any profession by virtue of any such commissions, to continue in the due exercise of their respective duties, functions and professions, and such proclamation shall suffice, and the incumbents shall, as soon thereafter as may be, take the usual and customary oath of allegiance before the proper officer or officers thereunto appointed.

Continuance in duty and validity of acts

(2) The proclamation having been issued and oath taken, every public officer and functionary shall continue in the lawful exercise of the duties and functions of his office or profession as fully as if appointed *de novo* by commission derived from the Sovereign for the time being, and all acts and things *bona fide* done and performed by such incumbents in their respective offices and in the due and faithful performance of their duties and functions between the time of the demise and the proclamation so to be issued, the oath of allegiance being always duly taken, shall be deemed to be legally done and valid accordingly. R.S.O. 1970, c. 382, s. 2.

Savings as to rights of the Crown

3. Nothing in section 2 prejudices or in any way affects the rights or prerogatives of the Crown with respect to any office or appointment derived or held by authority from the Crown, nor prejudices or affects the rights or prerogatives thereof in any other respect whatsoever. R.S.O. 1970, c. 382, s. 3.

Oaths of allegiance and office

4. It is not necessary for any person appointed to any office in Ontario or for any person called as a barrister or admitted as a solicitor to make any declaration or subscription or to take or subscribe any other oath than the following:

> I,....., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (*or the reigning Sovereign for the time being*), her heirs and successors according to law. So help me God.

and also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as may be required by any law in that behalf. R.S.O. 1970, c. 382, s. 4.

Form of oath of allegiance to be used

5. Except where otherwise specially provided, the form hereinbefore set forth, and no other, is the oath of allegiance to be administered to and taken by every person in Ontario, who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any Act, desires to take an oath of allegiance. R.S.O. 1970, c. 382, s. 5.

Who may administer oath of allegiance

6. All provincial judges and all other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of Ontario. R.S.O. 1970, c. 382, s. 6.

Security to be given be certain public officers

7.—(1) Security by or on behalf of every person appointed to any office or employment, or commission in the public services of Ontario, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Ontario, and who by reason thereof is required to give security, shall be furnished within one month after notice of his appointment, if he is then in Ontario, or within three months, if he is then absent from Ontario (unless he sooner arrives in Ontario, and then within one month after such arrival), in such sum and in such manner as is approved of by the Lieutenant Governor in Council or by the principal officer or person in the office or ministry to which he is appointed, for the due performance of the trust reposed in him and for his duly accounting for all public moneys entrusted to him or placed under his control.

Liability of sureties of public officer for acts of deputy

(2) Where a deputy is appointed by a person holding an office, any security required by law and given on behalf of such person, extends to and includes the acts and omissions of the deputy, whether appointed before or after the giving of the security.

Security to cover acts and omissions of deputy

(3) The liability of the sureties, and of the officer appointing the deputy, is the same as regards the performance of the duties of the office by the deputy, as in regard to the performance thereof by the person holding the office, and such liability extends to and covers all acts and omissions of the deputy while he continues to perform the duties of the office, and whether before or after the death or resignation of the person appointing him, subject to the same rights of withdrawal by the sureties from liability, as exist in regard to the security given by public officers.

Deputy may be required to furnish security

(4) The Lieutenant Governor in Council may, notwithstanding this section, require new security to be furnished by any deputy on the death or resignation of the person holding the office wherein he is deputy, and such security shall be for the like amount, and subject to the same conditions as that required by law for the due performance of the duties of the office whom the deputy represents. R.S.O. 1970, c. 382, s. 7; 1972, c. 1, s. 2.

Form of security

8. The Lieutenant Governor in Council may prescribe the form of the security required to be furnished under any statute by a public officer or by any class of public officers, and may authorize the Treasurer of Ontario to enter into agreements in Her Majesty's name with any corporation authorized to carry on the business of fidelity insurance in Ontario for the furnishing of security for any public officer, or for public officers generally, or for any class or classes of public officers. R.S.O. 1970, c. 382, s. 8.

Savings as to municipal or school treasurers

9. Nothing in the preceding sections applies to any treasurer or other officer of a municipal or school corporation having the custody of moneys of such corporation. R.S.O. 1970, c. 382, s. 9.

Laying statement of securities before Assembly

10. The Treasurer of Ontario shall cause to be prepared and laid before the Assembly, within fifteen days after the opening of every session thereof, a detailed statement of all securities furnished on behalf of public officers, and of any changes that have been made in reference to such securities since the last statement laid before the Assembly. R.S.O. 1970, c. 382, s. 10.

Effect of securities by public officers

11. The security furnished on behalf of any public officer in pursuance of this or any other Act requiring security enures as well for the benefit of Her Majesty as for that of the persons for whose benefit it is provided by the Act requiring the security or otherwise that it shall enure. R.S.O. 1970, c. 382, s. 11.

Limitation of actions against sureties of public officers

12. Where a person is surety for a public officer or for any person appointed to any office, employment or commission in the public service of Ontario, or to any office or employment of public trust, whether the suretyship is for the benefit of Her Majesty or enures for the benefit of any person injured by the default or misconduct of the officer or other person, and an action is brought against the surety, no damages shall be recovered except as to matters and causes of action that have arisen within ten years next before the commencement of the action. R.S.O. 1970, c. 382, s. 12.

County court and small claims court clerks and surrogate court registrars

13. Every clerk of a county court, every registrar of a surrogate court and every clerk of a small claims court for a division embracing a city or part of a city, shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, showing the sums received by him for fees, charges and emoluments of all kinds whatsoever, and shall on or before the 15th day of January in each year make up a statement under oath of such fees, charges and emoluments to and including the 31st day of December of the previous year and deliver or mail it to the Attorney General. R.S.O. 1970, c. 382, s. 13.

Particulars in returns by public officers

14. Every public officer who is by this or any other Act required to make a return of the fees and emoluments of his office to any ministry of the Government, or to any officer, shall include in his return,

(*a*) the aggregate amount of all fees and emoluments earned by him during the preceding year by virtue of his office;

(*b*) the aggregate amount of all fees and emoluments actually received by him during the preceding year by virtue of his office;

(*c*) the actual amount of the disbursements during the same period in connection with his office, and such other particulars as the Lieutenant Governor in Council may prescribe. R.S.O. 1970, c. 382, s. 14; 1972, c. 1, s. 2.

Procedure against person who has ceased to be a public officer for retaining moneys, books, etc.

15. Where a person who has been, but has ceased to be, a public officer, retains possession of any accounts, moneys, books, papers, matters or things that have been in his possession as such officer, a judge of the Supreme Court or the judge of any county or district court, upon application of the successor in the office of such person or of the

Attorney General or of some person by his authority, and on notice to the person affected, may order that such accounts, moneys, books, papers, matters and things be forthwith delivered to such successor in office or to such person as the judge may direct, and in default that such person be committed to a correctional institution in the county or district in which he resides for such period as the judge may direct, or until he complies with the directions of the order, and may authorize the sheriff of any county or district in which the same may be found to forthwith seize and take such accounts, moneys, books, papers, matters and things, and deliver them to the persons to whom they have been directed to be delivered. R.S.O. 1970, c. 382, s. 15; 1972, c. 1, s. 9 (7).

Procedure when public officer interested in question before him

16. Where by any general or special Act any person or the occupant for the time being of any office is empowered to do or perform any act, matter or thing and such person or the occupant for the time being of such office is disqualified by interest from acting and no other person is by law empowered to do or perform such act, matter or thing, then he or any interested person may apply, upon summary motion, to a judge of the Supreme Court, who may appoint some disinterested person to do or perform the act, matter or thing in question. R.S.O. 1970, c. 382, s. 16.

CHAPTER 416

Public Officers' Fees Act

Interpretation

1. In this Act,

(*a*) "net income" means the excess of all fees and emoluments earned during the calendar year by an officer, by virtue of all his offices, after deducting such disbursements incident to the business of the office as may be allowed by the proper officer including the salaries of clerks and other employees;

(*b*) "proper officer" means the inspector appointed under any Act who has supervision over the office in question, or any person designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 383, s. 1.

Percentage of fees payable to Province

2.—(1) Every officer to whom this Act applies who is paid by fees and not by salary only shall pay to the Treasurer of Ontario a percentage of the fees earned by him during the calendar year as provided by this Act and by any regulation made thereunder.

Apportionment

(2) When more than one person has held an office in a calendar year, each shall pay a proportionate part based upon his net income and the time he held office. R.S.O. 1970, c. 383, s. 2.

Returns to be made on or before 15th January

3.—(1) On or before the 15th day of January in each year every officer to whom this Act applies shall transmit to the proper officer a return under oath of all fees and emoluments, including his salary, if any, earned in respect of his office, whether actually received or not, and also of the disbursements of his office during the calendar year ending on the 31st day of December previous to such return, and shall with such return transmit by marked cheque payable to the Treasurer of Ontario the percentage payable to the Government under this Act.

When ceasing to hold office

(2) When a person ceases to hold office during a calendar year, he shall make a return and remit a cheque for the due proportion of the percentage within thirty days from the time he ceases to hold office.

Where officer dies

(3) Upon the death of a person holding office, his representatives shall make a return within thirty days from the date of death and pay the due proportion of the percentage.

Attorney General may require special return

(4) When so required by the Attorney General, any officer shall make at any time a special return and shall forthwith pay over the due proportion of the percentage as of the date of such return. R.S.O. 1970, c. 383, s. 3; 1972, c. 1, s. 9 (7).

Allowances for salary to be approved

4.—(1) No allowance shall be made for any salary to any clerk or other employee until the proper officer has certified to the necessity for his employment and the reasonableness of the salary paid.

Application of section

(2) This section applies to every person holding the office of Crown attorney, clerk of the peace, sheriff, local registrar of the Supreme Court, deputy registrar, clerk of the county or district court, registrar of the surrogate court, and to every other officer designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 383, s. 4.

Crown attorney

5. Every Crown attorney, whether he is or is not the clerk of the peace, and every clerk of the peace, is entitled to retain to his own use in each year his net income up to $6,000, but shall pay to the Treasurer of Ontario 50 per cent of the excess over that sum. R.S.O. 1970, c. 383, s. 5.

Supreme Court, county court and surrogate court fees

6.—(1) Every local registrar of the Supreme Court, deputy registrar, county or district court clerk and registrar of the surrogate court, whether holding one or more of such officers, and every sheriff is entitled to retain to his own use in each year his net income up to $4,000.

Percentages payable on net income

(2) On the net income of each year over $4,000, he shall pay to the Treasurer of Ontario,

(*a*) on the excess over $4,000 up to $6,000, 50 per cent;

(*b*) on the excess over $6,000, 90 per cent. R.S.O. 1970, c. 383, s. 6.

Application of moneys

7. The money paid to the Treasure of Ontario forms part of the Consolidated Revenue Fund. R.S.O. 1970, c. 383, s. 8.

Salaries of sheriffs in districts

8. The Lieutenant Governor in Council may direct the payment out of the Consolidated Revenue Fund to the

sheriff and other officers of any provisional judicial district of such several sums of money by way of salary or otherwise and in addition to the fees that are received by such officers as are thought reasonable for the services performed by them. R.S.O. 1970, c. 383, s. 9.

Regulations for management of offices

9. The Lieutenant Governor in Council may make regulations for the management of the offices of all public officers, and may confer upon any inspector such powers as are considered necessary for the carrying out of this Act and of the Acts under which such officers are appointed or under which they are required to discharge their duties. R.S.O. 1970, c. 383, s. 10.

Minimum salary for certain officers

10. Where it appears by a return to the Lieutenant Governor or to any ministry of the Government that in any year a sheriff, local registrar of the Supreme Court, deputy registrar, county or district court clerk, and registrar of the surrogate court, whether holding one or more of the above offices, has derived from the fees, emoluments and salary, if any, of his office, after deducting necessary disbursements, an income which does not exceed $3,200, or the amount at which he is commuted, as the case may be, there may, on the report of the Inspector of Legal Offices, be paid to such officer out of the Consolidated Revenue Fund an amount sufficient to make up the income for the year to $3,200, or to the amount at which he is commuted, as the case may be, if the Lieutenant Governor in Council so directs. R.S.O. 1970, c. 383, s. 11; 1972, c. 1, s. 2.

Compulsory retirement of officers

11. An officer, other than a sheriff, to whom this Act applies shall cease to hold office upon attaining the age of eighty years and the appointment of his successor. R.S.O. 1970, c. 383, s. 12.

CHAPTER 417

Public Parks Act

Establishment of parks

1.—(1) A park, or a system of parks, avenues, boulevards and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner hereinafter provided.

Petition and by-law therefor

(2) Subject to subsection (5), if a petition, praying for the adoption of this Act, is presented to the council of any county or city signed by not less than 500 electors, or to the council of any town or township signed by not less than 200 electors, or to the council of any village signed by not less than 75 electors, the council may pass a by-law giving effect to the petition, with the assent of the electors qualified to vote at municipal elections, given before the final passing of the by-law as provided by the *Municipal Act*. R.S.O. 1980, c. 302

Idem

(3) If the majority of the votes is in favour of the by-law, it shall be finally passed by the council at its next regular meeting held after the taking of the vote, or as soon thereafter as may be.

Restriction

(4) If the vote is adverse, no by-law for the same purpose shall afterwards be submitted to the electors within the same year.

When submission to electors unnecessary

(5) It is not necessary for a county council to submit the by-law for the assent of the electors if the by-law, on the final reading thereof, is approved by three-fifths of the members of the council then present.

Repeal of by-law

(6) A by-law passed under subsection (2) may be repealed with the assent of the electors qualified to vote at municipal elections.

Employees of board become municipal employees on dissolution of board

(7) When a by-law passed under subsection (2) is repealed, every officer and employee of the board of park management becomes a municipal employee and continues as such until removed by the council, unless his engagement sooner terminates. R.S.O. 1970, c. 384, s. 1.

Parks to be open to public

2.—(1) The parks, avenues, boulevards and drives, and approaches thereto, and streets connecting the same, shall

be open to the public free of all charge, subject to the by-laws, rules and regulations of the board of park management, and subject also to sections 13 and 14.

Fees, for use of facilities

(2) The board of park management may pass by-laws prescribing fees for the use of any facilities provided in any park.

for entrance

(3) The board of park management, with the approval of the council of the municipality, may pass by-laws prescribing fees for entrance to any park. R.S.O. 1970, c. 384, s. 2.

Board of park management

3.—(1) Where this Act is adopted, the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under this Act, shall be vested in and exercised by a board to be called "The Board of Park Management".

Authority of board to what streets applicable

(2) The authority of the board does not extend to any streets open at the time of the adoption of this Act, with the exception of streets expressly specified in the by-law adopting this Act, or which at any time or from time to time afterwards, in pursuance of an agreement between the council and the board, the council by by-law declares to be subject to this Act.

Consent of municipal council and agricultural society

(3) Nothing in this Act authorizes the board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein.

Management of special undertakings R.S.O. 1980, c. 302

(4) The council may by by-law appoint the board to manage, regulate and control any undertaking established under paragraph 57 of section 208 of the *Municipal Act* and thereupon the management, regulation and control thereof shall be vested in and exercised by the board, and the board has power to prescribe fees for admittance to or for the use of any such undertaking. R.S.O. 1970, c. 384, s. 3.

Constitution of board

4. The board is a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents or ratepayers of the municipality, but not members of the council, and shall be appointed by the council. R.S.O. 1970, c. 384, s. 4.

Alternative composition of board

5.—(1) Notwithstanding sections 4 and 6, the council of the municipality may by by-law provide that the board shall be composed of such number of resident ratepayers, not fewer than three and not more than seven, as the by-law provides, but where the board is to be composed of five or more persons at least two shall be members of the council.

Appointments

(2) The members of the board shall be appointed annually by the council.

Quorum

(3) A majority of the members of the board constitutes a quorum.

Application of s. 6, subss. (2, 4-12, 14)

(4) Subsections 6 (2), (4) to (12) and (14) apply with necessary modifications when the board is composed as provided in this section. R.S.O. 1970, c. 384, s. 5.

Tenure of office

6.—(1) The appointed members of the board shall hold office for three years, except in the case of the members of the first board, two of whom shall hold office until the 1st day of February in the year following the first appointments, two for one year, and two for two years, from that day; such members retiring in rotation, two each year, the older of such retirements to be determined by lot among themselves at their first meeting; but every member of the board shall continue in office until his successor is appointed and is eligible for reappointment.

Vacancies

(2) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the time for which he was appointed, the member appointed in his place shall hold office for the remainder of his term and until his successor is appointed.

Term of office of appointed members

(3) Save as aforesaid, each of the appointed members shall hold office for three years from the 1st day of February in the year in which he is appointed.

First appointments

(4) The first appointment of members of the board shall be made at the first regular meeting of the council held after the final passing of the by-law.

Subsequent appointments

(5) Thereafter the appointments shall be made annually at the first meeting of the council held after its organization; and any vacancy arising from any cause other than the expiration of the time for which the member was appointed shall be filled at the first meeting of the council held after the occurrence of the vacancy.

Organization of board

(6) The first members of the board, within ten days after their appointment and on such day and hour as the head of the municipality shall appoint, notice of the appointment in writing, signed by him, having been duly sent to the address of each member at least one week before the day and hour named therein, shall meet at the office of the head for the purpose of organization, shall elect one of their number chairman and shall appoint a secretary who may be one of their own number.

When appointments not made at required time

(7) If for any reason appointments are not made at the prescribed time, they shall be made as soon as may be thereafter.

Tenure of office of chairman and secretary

(8) The chairman and secretary shall hold office at the pleasure of the board, or for such period as the board may prescribe.

Chairman and secretary *pro tem*

(9) When the chairman or secretary is absent or unable to act, the board may appoint a chairman or secretary *pro tempore*.

Monthly meeting

(10) The board shall meet at least once in every month.

Calling special meeting

(11) The chairman or any two members may summon a special meeting of the board by giving at least two days notice in writing to each member, specifying the purpose for which the meeting is called.

Vacating office by absence

(12) The office of a member who is absent from the meetings of the board for three consecutive months, without leave of absence from the board or without reasons satisfactory to the board, shall be declared vacant by the board, and notice thereof shall be given to the council at its next meeting.

Quorum

(13) No business shall be transacted at any special or general meeting unless at least four members are present.

Records

(14) All orders and proceedings of the board shall be entered in books to be kept for that purpose and shall be signed by the chairman for the time being, and, when so entered and purporting to be so signed, shall be deemed to be original orders and proceedings, and the books may be produced and read in any judicial proceeding as evidence of the orders and proceedings. R.S.O. 1970, c. 384, s. 6.

Payment of expenses of members

7. The members of the board shall serve without compensation, but each member is entitled to receive his actual disbursements for expenses in visiting or superintending the park or park

property where the visit or service is made or rendered by direction of the board. R.S.O. 1970, c. 384, s. 7 (1).

Assistance

8. The board may employ all necessary clerks, agents and servants, and may prescribe their duties and compensation. R.S.O. 1970, c. 384, s. 8.

Custody and inspection of records

9. The board shall keep in its office all books, maps, plans, papers and documents used in and pertaining to the business of the board, and the same shall be open to the examination of the members of the council, and of any other person appointed for that purpose by the council. R.S.O. 1970, c. 384, s. 9.

Accounts

10. The board shall keep accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited by the auditor of the municipal corporation in like manner as other accounts of the municipal corporation, and shall thereafter be laid before the council by the board. R.S.O. 1970, c. 384, s. 10.

Power to make by-laws, etc.

11.—(1) The board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario.

Consent of board necessary for exercise of certain powers R.S.O. 1950, c. 331

(2) The powers conferred upon municipal councils by *The Railways Act*, so far as relates to any streets or approaches under the control of the board, shall not be exercised without the consent of the board, and no street railway or other railway shall enter upon or pass through the park.

Licensing of cabs and vehicles and sale of refreshments

(3) The board has power to license cabs and other vehicles for use in a park, and to let from year to year, or for any time not exceeding ten years, the right to sell refreshments, other than spirituous, fermented or intoxicating liquors, within the park under such regulations as the board shall prescribe.

Penalties

(4) The board has power in and by their by-laws to attach penalties for the infraction thereof, and such by-laws may be enforced and the penalties thereunder recovered in like manner as by-laws of municipal councils and the penalties thereunder may be enforced and recovered.

By-laws, authentication of

(5) The by-laws are sufficiently authenticated by being signed by the chairman of the board, and a copy of any by-law, written or printed, and certified to be a true copy by any member of the board, is receivable as evidence without proof of any such signature.

Board authorized to perform services

(6) The board may perform such services for the municipality or any other local board as it ordinarily performs in the general maintenance and operation of parks under the authority of this Act and may receive compensation for such services.

Owner and driver of vehicle liable to penalties

(7) The driver of a vehicle, not being the owner, is liable to any penalty provided under a by-law passed under this section, and the owner of the vehicle is also liable to such a penalty unless, at the time the offence was committed, the vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. R.S.O. 1970, c. 384, s. 11.

Power of municipality to acquire property for park purposes

12. Real and personal property may be devised, bequeathed, granted, conveyed or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto, and of the streets connecting therewith, and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments or works of art, upon such trusts and conditions as may be prescribed by the donor. R.S.O. 1970, c. 384, s. 12.

Power of the board to acquire land

13.—(1) The board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act.

Grantee

(2) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation.

Power to lease

(3) The board has power to let any land not immediately required for park purposes.

Power to sell

(4) If it has more land than is required for park purposes, the board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be considered most advantageous.

Lands for athletic, etc., purposes

(5) Where a park has been purchased or has been acquired by the board or by the corporation of the municipality, otherwise than by gift or devise, or by dedication to the public by the owner of the land, freely, or at a nominal price or rental, the board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease it for such purposes, for such times and on such terms as the board may see fit, but the powers conferred by this subsection are not exercisable with respect to any park unless the board has applied for and received the approval of the council. R.S.O. 1970, c. 384, s. 13.

Municipality may empower board to manage any corporation land

14.—(1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the board, and the board may set apart the land or any part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease it for such purposes, for such times and on such terms as the board may see fit.

Council may repeal by-law

(2) The council may repeal any by-law passed under subsection (1), and the municipal corporation may thereafter sell or otherwise dispose of the land or use it for any lawful purpose of the corporation. R.S.O. 1970, c. 384, s. 14.

Power to enter on lands and expropriate streams, etc.

15. The board, its engineers, surveyors, servants and workmen may enter upon the land of any person in the municipality, or, in the case of a city within sixteen kilometres, and in the case of a town within eight kilometres thereof, and may survey, set out and ascertain such parts thereof as are required for parks, avenues, boulevards and drives and approaches thereto, or for any other purposes of the board, including the supply of water for artificial lakes, fountains and other park purposes, and with the consent of all parties interested capable of consenting, may divert and expropriate any river, ponds of water, springs or streams of water therein that the engineer, surveyor or other person authorized by the board considers suitable for such purposes, and the board may contract with the owner or occupier of the land and with those having a right or interest in the water, for the purchase or renting thereof or of any part thereof, or of any privilege that may be required for the purposes of the board; but the board shall not interfere with the waterworks or water supply of any municipal corporation or of any waterworks company. R.S.O. 1970, c. 384, s. 15; 1978, c. 87, s. 45.

Arbitration

16. In case of any disagreement between the board and the owner or occupier of, or any other person interested in such land, or any person having an interest in such water, or in the natural flow thereof, or in any such privilege, respecting the amount of purchase money or yearly rental thereof, or otherwise, the matter in question, other than those to which the *Expropriations Act* applies, shall be determined by arbitration under the *Municipal Act* as hereinafter provided. R.S.O. 1970, c. 384, s. 16.

R.S.O. 1980, cc. 148, 302

Application of R.S.O. 1980, c. 302

17. Sections 192, 193 and 195 of the *Municipal Act* shall be read as part of this Act, and apply to the board as if the board were named therein instead of the corporation or municipal council. R.S.O. 1970, c. 384, s. 17.

Board to make yearly estimates

18.—(1) The board shall, in the month of February in every year, prepare an estimate of the sums required during the ensuing financial year for,

(*a*) the interest on money borrowed;

(*b*) payment of interest and principal on debentures;

(*c*) the expense of managing, regulating and controlling any undertaking established under paragraph 57 of section 208 of the *Municipal Act*;

(*d*) the expense of maintaining, improving and managing the parks, boulevards, avenues and streets under its control; and

(*e*) the interest and instalments of purchase money for the purchase of small squares or parks.

When estimate to be reported

(2) The board shall report its estimate to the council not later than the 15th day of February in each year.

Estimates for park purposes

(3) The council may include in its estimates the sums estimated to be required by the board of park management under subsection (1), or such greater or lesser sums as the council may determine.

Power to issue debentures

(4) Subject as hereinafter provided, the council may also, on the requisition of the board, raise by the issue of debentures the sums required for the purpose of purchasing the land and privileges that are reported by the board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the board for park purposes.

(5) Except as otherwise expressly provided in this Act, the provisions of the *Municipal Act* as to money by-laws and the debentures to be issued thereunder apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder. Application of provisions of R.S.O. 1980, c. 302

(6) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be deposited by him to the credit of the park fund, and shall be paid out by him on the orders of the board. R.S.O. 1970, c. 384, s. 18. Money, application of

19.—(1) No person shall, Prohibitions and penalties:

(*a*) wilfully or maliciously hinder, or interrupt, or cause or procure to be hindered or interrupted, the board or its engineers, surveyors, managers, contractors, servants, agents, workmen, or any of them in the exercise of any of the powers and authorities authorized and contained in this Act; hindering, etc., board or its officers

(*b*) wilfully or maliciously let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, lake or other receptacle for water connected with any such park; wasting water

(*c*) cause any dog or other animal to swim in, or throw or deposit any injurious, noisome or offensive matter into the water in any reservoir, lake, pond, or other receptacle for water connected with any such park, or upon the ice in case the water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes or water, or encourage the same to be done; fouling reservoir

(*d*) lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the waterworks connected with any such park or parks, or in any way obtain or use any water thereof without the consent of the board; diverting water

(*e*) wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park, avenue, drive or other public place under the control of the board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, destroying ornamental trees, etc.

possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein;

injuring animals, etc.

(*f*) wilfully or maliciously injure, hurt or otherwise molest or disturb any animal, bird or fish kept in any such park or in the lakes or ponds connected therewith.

Offence

(2) Every person who contravenes any provision of subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than $1 and not more than $20; or may be imprisoned for a term of not more than thirty days; and is liable to an action at the suit of the board to make good any damage done by him. R.S.O. 1970, c. 384, s. 19.

CHAPTER 418

Public Service Act

1. In this Act, Interpretation

(*a*) "civil servant" means a person appointed to the service of the Crown by the Lieutenant Governor in Council on the certificate of the Commission or by the Commission, and "civil service" has a corresponding meaning;

(*b*) "classified service" means the part of the public service to which civil servants are appointed;

(*c*) "Commission" means the Civil Service Commission;

(*d*) "Crown" means the Crown in right of Ontario;

(*e*) "Crown employee" means a person employed in the service of the Crown or any agency of the Crown, but does not include an employee of Ontario Hydro or the Ontario Northland Transportation Commission;

(*f*) "Minister" means the member of the Executive Council who is designated by the Lieutenant Governor in Council as the minister to whom the Commission is responsible for the administration of this Act;

(*g*) "public servant" means a person appointed under this Act to the service of the Crown by the Lieutenant Governor in Council, by the Commission or by a minister, and "public service" has a corresponding meaning;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "unclassified service" means the part of the public service that is composed of positions to which persons are appointed by a minister under this Act. R.S.O. 1970, c. 386, s. 1; 1972, c. 96, s. 1; 1973, c. 57, s. 19.

Commission, composition

2.—(1) The Commission shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, one of whom may be appointed chairman.

status

(2) The full-time members of the Commission shall be deemed to be civil servants. R.S.O. 1970, c. 386, s. 2.

Chairman to rank as deputy minister

(3) The chairman of the Commission shall rank as and have all the powers and duties of a deputy minister of a ministry. 1972, c. 96, s. 2.

Administration

3.—(1) The Commission is responsible to the Minister for the administration of this Act. R.S.O. 1970, c. 386, s. 3; 1972, c. 1, s. 107.

Staff

(2) The staff of the Commission is responsible to the chairman of the Commission and shall consist of such officers and servants appointed under this Act as are necessary for the proper conduct of the business of the Commission. 1972, c. 96, s. 3.

Duties of Commission

4. The Commission shall,

(*a*) evaluate and classify each position in the classified service and determine the qualifications therefor;

(*b*) recommend to the Lieutenant Governor in Council the salary range for each classification, except a previously established classification for which a salary range is determined through bargaining pursuant to the *Crown Employees Collective Bargaining Act*;

R.S.O. 1980, c. 108

(*c*) recruit qualified persons for the civil service and establish lists of eligibles;

(*d*) assign persons to positions in the classified service and specify the salaries payable;

(*e*) determine perquisite charges for civil servants;

(*f*) provide, assist in or co-ordinate staff development programs;

(*g*) present annually through the Minister to the Lieutenant Governor in Council a report upon the performance of its duties during the preceding year, which report shall be laid before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 386, s. 4; 1972, c. 96, s. 4.

Exclusion of positions from classified service

5. The Commission may exclude any position in the classified service from that service for such period as it may determine. R.S.O. 1970, c. 386, s. 5.

Filing of vacancies in classified service

6.—(1) When a vacancy exists in the classified service, the deputy minister of the ministry in which the vacancy exists shall nominate in writing from the list of eligibles of the Commission a person to fill the vacancy.

Appointments to probationary staff

(2) The Commission shall appoint the person nominated under subsection (1) to a position on the probationary staff of the classified service for not more than one year at a time. R.S.O. 1970, c. 386, s. 6; 1972, c. 1, s. 2.

Appointments to regular staff

7. The Commission shall, if requested in writing by the deputy minister, recommend to the Lieutenant Governor in Council the appointment of a person on the probationary staff of the classified service to the regular staff of the classified service, and the recommendation shall be accompanied by the certificate of qualification and assignment of the Commission. R.S.O. 1970, c. 386, s. 7.

Appointment by minister to unclassified service

8.—(1) A minister or any public servant who is designated in writing for the purpose by him may appoint for a period of not more than one year on the first appointment and for any period on any subsequent appointment a person to a position in the unclassified service in any Ministry over which he presides.

Idem

(2) Any appointment made by a designee under subsection (1) shall be deemed to have been made by his minister. R.S.O. 1970, c. 386, s. 8; 1972, c. 1, s. 2.

Termination of appointment

9. A person who is appointed to a position in the public service for a specified period ceases to be a public servant at the expiration of that period. R.S.O. 1970, c. 386, s. 9.

Oath of office and secrecy

10.—(1) Every civil servant shall before any salary is paid to him take and subscribe before the Clerk of the Executive Council, his deputy minister, or a person designated in writing by either of them, an oath of office and secrecy in the following form:

> I,....., do swear that I will faithfully discharge my duties as a civil servant and will observe and comply with the laws of Canada and Ontario, and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a civil servant.
>
> So help me God.

Oath of allegiance

(2) Every civil servant shall before performing any duty as a member of the regular staff take and subscribe before the Clerk of the Executive Council, his deputy minister, or a person designated in writing by either of them, an oath of allegiance in the following form:

> I, ..., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (*or the reigning sovereign for the time being*), her heirs and successors according to law.
>
> So help me God.

Unclassified service

(3) A minister may require any person or class of persons appointed to the unclassified service in any ministry over which he presides to take and subscribe to either or both of the oaths set out in subsections (1) and (2).

Record of oaths

(4) A copy of each oath administered to a civil servant shall be kept by his deputy minister in the departmental file of the civil servant. R.S.O. 1970, c. 386, s. 10; 1972, c. 1, s. 2.

Political activities of Crown employees, municipal elections

11. A Crown employee, other than a deputy minister or any other Crown employee in a position or classification designated in the regulations, may be a candidate for election to any elective municipal office, including a member or trustee of an elementary or secondary school board or a trustee of an improvement district, or may serve in such office or actively work in support of a candidate for such office if,

(*a*) the candidacy, service or activity does not interfere with the performance of his duties as a Crown employee;

(*b*) the candidacy, service or activity does not conflict with the interests of the Crown; and

(*c*) the candidacy, service or activity is not in affiliation with or sponsored by a provincial or federal political party. R.S.O. 1970, c. 386, s. 11.

Political activities of Crown employees, provincial and federal elections

12.—(1) Except during a leave of absence granted under subsection (2), a Crown employee shall not,

(*a*) be a candidate in a provincial or federal election or serve as an elected representative in the legislature of any province or in the Parliament of Canada;

(*b*) solicit funds for a provincial or federal political party or candidate; or

(*c*) associate his position in the service of the Crown with any political activity.

Leave of absence for election candidates

(2) Any Crown employee, other than a deputy minister or any other Crown employee in a position or classification designated in the regulations under clause 30 (1) (*u*), who proposes to become a candidate in a provincial or federal election shall apply through his minister to the Lieutenant Governor in Council for leave of absence without pay for a period,

(*a*) not longer than that commencing on the day on which the writ for the election is issued and ending on polling day; and

(*b*) not shorter than that commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

Resignation

(3) Where a Crown employee who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a Crown employee.

Re-appointment

(4) Where a Crown employee who has resigned under subsection (3),

(*a*) ceases to be an elected political representative within five years of the resignation; and

(*b*) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

Service deemed continuous

(5) Where a Crown employee has been granted leave of absence under subsection (2) and was not elected, or resigned his position under subsection (3) and was reappointed under subsection (4), the period of the leave of absence or resignation shall not be computed in determining the length of his service for any purpose, and the service before and after such period shall be deemed to be continuous for all purposes. R.S.O. 1970, c. 386, s. 12.

Canvassing prohibited during elections, civil servants

13.—(1) A civil servant shall not during a provincial or federal election canvass on behalf of a candidate in the election.

Idem, senior officials

(2) Notwithstanding subsection (1), a deputy minister or any other Crown employee in a position or classification designated in the regulations under clause 30 (1) (*u*) shall not at any time canvass on behalf of or otherwise actively work in support of a provincial or federal political party or candidate. R.S.O. 1970, c. 386, s. 13.

Speaking, etc., on political issues by civil servants

14. Except during a leave of absence granted under subsection 12 (2), a civil servant shall not at any time speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a provincial or federal political party. R.S.O. 1970, c. 386, s. 14.

Political activity during working hours

15. A Crown employee shall not during working hours engage in any activity for or on behalf of a provincial or federal political party. R.S.O. 1970, c. 386, s. 15.

Dismissal for contravention

16. A contravention of section 11, 12, 13, 14 or 15 shall be deemed to be sufficient cause for dismissal. R.S.O. 1970, c. 386, s. 16.

Age of retirement

17. Every civil servant shall retire at the end of the month in which he attains the age of sixty-five years, but, where in the opinion of the Commission special circumstances exist and where his deputy minister so requests in writing, he may be reappointed by the Lieutenant Governor in Council for a period not exceeding one year at a time until the end of the month in which he attains the age of seventy years. R.S.O. 1970, c. 386, s. 17 (1).

Appointment of superannuates and annuitants

R.S.O. 1980, c. 419

18. The Lieutenant Governor in Council may appoint for a period not exceeding six months at a time in a special capacity any person who is receiving a superannuation allowance or an annuity under the *Public Service Superannuation Act* and who has professional, expert or technical knowledge that the Lieutenant Governor in Council desires to have at his disposal. R.S.O. 1970, c. 386, s. 18.

Resignation

19. A person may resign from the public service by giving his deputy minister two weeks notice in writing of his intention to resign, but he may, by an appropriate notice in writing and with the approval of his deputy

minister, withdraw the notice at any time before its effective date if no person has been appointed or selected for appointment to the position that will become vacant by reason of his resignation. R.S.O. 1970, c. 386, s. 19.

Abandonment

20. A public servant who is absent from duty without official leave for a period of two weeks or such longer period as is prescribed in the regulations may by an instrument in writing be declared by his deputy minister to have abandoned his position, and thereupon his position becomes vacant and he ceases to be a public servant. R.S.O. 1970, c. 386, s. 20.

Deputy minister's functions

21.—(1) Subject to the direction of his minister, a deputy minister is responsible for the operation of his ministry and shall perform such other functions as are assigned to him by his minister or by the Lieutenant Governor in Council.

Absence, etc.

(2) Where a deputy minister is absent or where there is a vacancy in the office, his powers and duties shall be exercised and performed by such public servant as is designated by his minister. R.S.O. 1970, c. 386, s. 21; 1972, c. 1, s. 2.

Suspension during investigation

22.—(1) A deputy minister may, pending an investigation, suspend from employment any public servant in his ministry for such period as the regulations prescribe, and during any such period of suspension may withhold the salary of the public servant.

Removal from employment

(2) A deputy minister may for cause remove from employment without salary any public servant in his ministry for a period not exceeding one month or such lesser period as the regulations prescribe.

Power to dismiss

(3) A deputy minister may for cause dismiss from employment in accordance with the regulations any public servant in his ministry.

Release from employment

(4) A deputy minister may release from employment in accordance with the regulations any public servant where he considers it necessary by reason of shortage of work or funds or the abolition of a position or other material change in organization.

Idem

(5) A deputy minister may release from employment any public servant during the first year of his employment for failure to meet the requirements of his position. R.S.O. 1970, c. 386, s. 22; 1972, c. 1, s. 2.

Delegation of powers, deputy minister

23.—(1) With the consent in writing of his minister, a deputy minister may delegate in writing any of his powers under this Act to any public servant or any class thereof in his ministry.

Delegation of duties, deputy minister

(2) With the consent of his minister, a deputy minister may delegate any of his duties under this Act to any public servant or any class thereof in his ministry. R.S.O. 1970, c. 386, s. 23; 1972, c. 1, s. 2.

Delegation of powers and functions, Commission

24. The Commission may authorize a deputy minister to exercise and perform any of the powers or functions of the Commission in relation to the recruitment of qualified persons for the civil service and to the evaluation and classification of positions in the classified service that are designated by the Commission. R.S.O. 1970, c. 386, s. 24.

Access to records, etc.

25.—(1) Deputy ministers and public servants shall give the Commission such access to their respective ministries and offices and such facilities, assistance and information as the Commission may require for the performance of its duties. R.S.O. 1970, c. 386, s. 25 (1); 1972, c. 1, s. 2.

Investigations

(2) In connection with, and for the purposes of, any investigation, the Commission or any member thereof holding an investigation has the powers of a commission under Part II of the *Public Inquiries Act,* which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 386, s. 25 (2); 1971, c. 49, s. 18.

R.S.O. 1980, c. 411

Debts of persons paid out of Consolidated Revenue Fund

26. Where a debt or money demand of not less than $25, either on a judgment or otherwise and not being a claim for damages, is due and owing by a Crown employee whose salary or wages are paid out of the Consolidated Revenue Fund, and the creditor files with the Treasurer of Ontario,

(*a*) a notice of the debt or money demand; and

(*b*) such proof as the Treasurer may require that the debt or money demand is owing,

the Treasurer may deduct from the salary of the debtor, or from any money owing to him from the Crown and payable out of the Consolidated Revenue Fund, such amount as the Treasurer sees fit in the circumstances and pay the amount to the creditor in discharge or in partial discharge of the debt or money demand. R.S.O. 1970, c. 386, s. 26.

27.—(1) In this section, Interpretation

(*a*) "agreement" means an agreement in writing between the Crown on the one hand and the Association on the other hand;

(*b*) "Arbitration Committee" means the Ontario Provincial Police Arbitration Committee;

(*c*) "Association" means an association including only members of the Ontario Provincial Police Force which is not affiliated directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union and which represents a majority of such members to whom sections 27 and 28 apply for the purposes of collective bargaining;

(*d*) "Negotiating Committee" means the Ontario Provincial Police Negotiating Committee.

(2) Sections 27 and 28 apply to members of the Ontario Provincial Police Force who are cadets, probationary constables, constables, corporals, sergeants and staff sergeants including detective-sergeants, traffic sergeants and identification sergeants. Application of ss. 27, 28

(3) The Association is the exclusive bargaining agent authorized to represent the members of the Ontario Provincial Police Force, in bargaining with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection (4), and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to a member for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by members, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development. Bargaining authority

(4) Except in relation to matters governed by or under the *Police Act*, every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality Exclusive functions of employer R.S.O. 1980, c. 381

of the foregoing, includes the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of the Negotiating Committee or the Arbitration Committee.

Negotiating Committee

(5) The Ontario Provincial Police Negotiating Committee appointed by the Lieutenant Governor in Council is continued and shall be composed of,

(*a*) three members appointed by the Lieutenant Governor in Council on the recommendation of the Association to be known as the "staff side";

(*b*) three members appointed by the Lieutenant Governor in Council to be known as the "employer side"; and

(*c*) a chairman appointed by the Lieutenant Governor in Council who shall not be a member of the staff side or of the employer side and who shall not vote.

Acting chairman

(6) The Lieutenant Governor in Council may appoint a person who is not a member of the staff side or of the employer side to act as chairman when the chairman is absent.

Duties of chairman

(7) The chairman of the Negotiating Committee shall,

(*a*) at the request of a member convene a meeting of the Negotiating Committee;

(*b*) prepare the agenda for each meeting; and

(*c*) preside at each meeting.

Agenda

(8) Subject to subsection (7), at the request of a member of the Negotiating Committee, the chairman shall place upon the agenda any matter concerning,

(*a*) the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section so long as the request

is made not earlier than ninety days and not later than sixty days before the expiration date of the agreement; or

(*b*) the interpretation or clarification of any clause in an agreement.

Idem

(9) Notwithstanding clause 8 (*a*), where,

(*a*) a member of the Negotiating Committee requests that there be placed on the agenda a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section; and

(*b*) both the staff side and the employer side of the Negotiating Committee consent that the matter referred to in clause (*a*) be placed on the agenda,

the chairman shall place the matter on the agenda notwithstanding that the request may have been made earlier than ninety days or later than sixty days, before the expiration date of the agreement.

Quorum

(10) A quorum of the Negotiating Committee consists of,

(*a*) the chairman;

(*b*) two members of the staff side; and

(*c*) two members of the employer side.

Matters to be negotiated

(11) The Negotiating Committee shall negotiate such matters as are put on its agenda under subsections (8) and (9).

Grievance procedure

(12) The Negotiating Committee may establish a grievance procedure to deal with any complaint of an employee concerning working conditions or terms of employment other than a complaint to which the *Police Act* or the Code of Offences contained in the regulations made thereunder applies.

R.S.O. 1980, c. 381

Decision

(13) Every decision of the Negotiating Committee shall be in writing and in three copies and each copy shall be signed by the chairman and by a representative of the staff side and by a representative of the employer side.

When binding

(14) A decision of the Negotiating Committee shall not be binding on the staff side or the employer side until the decision has been approved in the manner set out in subsection (15) and transmitted by the chairman for implementation as set out in subsection (16).

Approval

(15) Approval of a decision of the Negotiating Committee shall be,

(*a*) on the staff side, by a decision of the Board of Directors of the Association; and

(*b*) on the employer side, by a decision of the Management Board of Cabinet.

Implementation

(16) The chairman of the Negotiating Committee shall transmit every decision of the Negotiating Committee to the proper authority to be implemented. 1972, c. 96, s. 6, *part*.

Arbitration Committee

28.—(1) The Ontario Provincial Police Arbitration Committee, appointed by the Lieutenant Governor in Council, is continued and shall be composed of,

(*a*) a chairman appointed for a renewable term of two years;

(*b*) one member recommended by the staff side of the Negotiating Committee; and

(*c*) one member recommended by the employer side of the Negotiating Committee.

Reference

(2) Where a majority of the members of the Negotiating Committee is unable to agree upon any matter, the chairman shall, at the request of a member, refer the matter to the Arbitration Committee who shall, after a hearing, decide the matter and the decision of the Arbitration Committee is final and binding on the Crown, the Association and the members of the Association referred to in subsection 27 (2).

Decision

(3) Every decision of the Arbitration Committee shall be in writing and shall be signed by the chairman and at least one member and shall be transmitted to the chairman of the Negotiating Committee.

Implementation

(4) The chairman of the Negotiating Committee shall transmit the decision of the Arbitration Committee to the proper authority to be implemented. 1972, c. 96, s. 6, *part*.

Implementation of collective agreements, etc.

29. Collective agreements and awards made in accordance with the collective bargaining procedures applicable to Crown employees and approved decisions of the Negotiating Committee under section 27 and decisions of the Arbitration Committee under section 28 shall be implemented by the Lieutenant Governor in Council by order in council. 1972, c. 96, s. 6, *part*.

Regulations

30.—(1) The Commission, subject to the approval of the Lieutenant Governor in Council, may make regulations,

(*a*) prescribing methods of evaluating and classifying positions;

(*b*) prescribing classifications for positions, including qualifications, duties and salaries, except salaries for previously established classifications for which salaries are determined through bargaining pursuant to the *Crown Employees Collective Bargaining Act*; R.S.O. 1980, c. 108

(*c*) prescribing the standards and procedures to be followed in recruitment, selection and nomination;

(*d*) prescribing the procedures to be followed in making assignments;

(*e*) providing for a probationary period on appointment or assignment;

(*f*) determining employee benefits;

(*g*) providing for the establishment of plans for group life insurance, medical-surgical insurance or long-term income protection insurance;

(*h*) prescribing the hours of work;

(*i*) defining overtime work and providing for compensation therefor;

(*j*) providing for and prescribing payments on death;

(*k*) regulating the conduct of public servants, including the imposition of fines, removal from employment, demotion or otherwise;

(*l*) providing for a system of credits for regular attendance and payments in respect of such credits;

(*m*) providing for the granting of leave of absence;

(*n*) prescribing a period longer than two weeks for the purposes of section 20;

(*o*) prescribing periods of suspension or removal from employment for the purposes of section 22;

(*p*) prescribing the conditions and procedures for release from employment, lay-off and subsequent reappointment;

(*q*) prescribing the conditions and procedures for dismissal;

(*r*) providing for departmental or branch councils, grievance boards, medical boards, and committees of any kind, and prescribing their jurisdictions, powers and duties, including any of the powers of a commission under Part II of the *Public Inquiries Act*;

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(*s*) prescribing arrangements and procedures for providing, assisting in or co-ordinating staff development programs;

(*t*) prescribing the rules of procedure governing proceedings of the Negotiating Committee and the Arbitration Committee;

(*u*) designating positions or classifications of Crown employees for the purpose of section 11;

(*v*) prescribing and providing for the use of forms under this Act or the regulations;

(*w*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 386, s. 29 (1); 1971, c. 49, s. 18; 1972, c. 96, s. 7 (1, 2).

Application

(2) Any regulations made under subsection (1) may be made applicable to all or any part of the classified service or unclassified service. R.S.O. 1970, c. 386, s. 29 (2).

Where agreement in conflict with regulation

(3) Any provision in a collective agreement that is in conflict with a provision of a regulation as it affects the employees of a bargaining unit covered by the collective agreement prevails over the provision of the regulation. 1972, c. 96, s. 7 (3).

31. The cost of administration of this Act is payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 386, s. 30. Cost of administration

32. The *Statutory Powers Procedure Act* does not apply to proceedings and decisions under this Act or the regulations. 1973, c. 85, s. 1. R.S.O. 1980, c. 484, not to apply

CHAPTER 419

Public Service Superannuation Act

1.—(1) In this Act, Interpretation

(*a*) "Board" means the Public Service Superannuation Board;

(*b*) "child" includes adopted child and step-child;

(*c*) "civil servant" has the same meaning as in the *Public Service Act*; R.S.O. 1980, c. 418

(*d*) "contributor" means a civil servant or a person in a class of persons to whom this Act is made applicable, and includes the Provincial Auditor, the Assistant Provincial Auditor and the members of the staff of the Provincial Auditor, but does not include a person who has not attained the age of eighteen years or a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund and the Canada Pension Plan;

(*e*) "Crown" means the Crown in right of Ontario;

(*f*) "Fund" means the Public Service Superannuation Fund;

(*g*) "Minister" means the Minister of Government Services;

(*h*) "Treasurer" means the Treasurer of Ontario and Minister of Economics;

(*i*) "widow" includes a woman who,

(i) establishes to the satisfaction of the Board that she had, for a period of not less than seven years immediately prior to the death of a contributor with whom she had been residing and with whom by law she was prohibited from marrying by reason of a previous marriage either of the contributor or of her-

self to another person, been maintained and publicly represented by the contributor as his wife, or

(ii) establishes to the satisfaction of the Board that she had, for a period of not less than twelve consecutive months immediately prior to the death of a contributor with whom she had been residing, been maintained and publicly represented by the contributor as his wife, and that at the time of the death of the contributor, neither she nor the contributor was married to any other person;

(*j*) "widower" includes a man who,

(i) establishes to the satisfaction of the Board that he had, for a period of not less than seven years immediately prior to the death of a contributor with whom he had been residing and with whom by law he was prohibited from marrying by reason of a previous marriage either of the contributor or of himself to another person, been maintained and publicly represented by the contributor as her husband, or

(ii) establishes to the satisfaction of the Board that he had, for a period of not less than twelve consecutive months immediately prior to the death of a contributor with whom he had been residing, been maintained and publicly represented by the contributor as her husband, and that at the time of the death of the contributor, neither he nor the contributor was married to any other person. R.S.O. 1970, c. 387, s. 1 (1); 1971 (2nd Sess.), c. 10, s. 1; 1972, c. 1, s. 76 (1); 1972, c. 3, s. 17 (1); 1974, c. 37, s. 1; 1975, c. 73, s. 1 (1-3).

When common-law wife deemed married to contributor

(2) For the purposes of this Act, a woman who has established to the satisfaction of the Board that she is a widow under subclause (1) (*i*) (i) or (ii) shall, if the Board so directs, be deemed to have become married to the contributor at such time as she commenced being represnted by him as his wife, and a woman who could establish that she is a widow under subclause (1) (*i*) (i) or (ii) but for her marriage to a contributor after such time as she commenced being represented by him as his wife shall, if the Board so directs, be deemed to have become married to the

contributor at the time when, in fact, she commenced being so represented. R.S.O. 1970, c. 387, s. 1 (2).

When common-law husband deemed married to contributor

(3) For the purposes of this Act, a man who has established to the satisfaction of the Board that he is a widower under subclause (1) (*j*) (i) or (ii) shall, if the Board so directs, be deemed to have become married to the contributor at such time as he commenced being represented by her as her husband, and a man who could establish that he is a widower under subclause (1) (*j*) (i) or (ii) but for his marriage to a contributor after such time as he commenced being represented by her as her husband shall, if the Board so directs, be deemed to have become married to the contributor at the time when, in fact, he commenced being so represented. 1975, c. 73, s. 1 (4).

Responsibility of Minister

2. The Minister is responsible for the administration of this Act. R.S.O. 1970, c. 387, s. 2; 1972, c. 1, s. 76 (2).

Board, continued

3.—(1) The board known as the Public Service Superannuation Board is continued and shall consist of four members. R.S.O. 1970, c. 387, s. 3 (1).

Composition

(2) The members of the Board shall be appointed by the Lieutenant Governor in Council, one of whom shall be the representative of the Civil Service Commission and one of whom shall be the representative of the Ontario Public Service Employees Union. 1974, c. 37, s. 2.

Chairman

(3) The Lieutenant Governor in Council may designate one of the members of the Board as chairman. R.S.O. 1970, c. 387, s. 3 (3).

Functions of Board

4. It is the function of the Board to make recommendations to the Minister with respect to matters under this Act and the amounts of allowances and annuities to which persons are entitled under this Act and to perform such other duties as are assigned to it by this Act or by the Minister. R.S.O. 1970, c. 387, s. 4; 1972, c. 1, s. 76 (3).

Fund continued

5.—(1) The fund known as the Public Service Superannuation Fund and the account in the books of the Treasurer known as the Public Service Superannuation Fund Account are continued.

Composition of Fund

(2) The Fund consists of the moneys paid in by contributors and the moneys credited to the Fund out of the Consolidated Revenue Fund or otherwise in accordance with law, less the moneys paid out under this Act.

Records

(3) The Treasurer shall keep records showing a separate account for each contributor to the Fund. R.S.O. 1970, c. 387, s. 5 (1-3).

Interest

(4) Interest shall be credited at the close of each fiscal year to the Fund out of the Consolidated Revenue Fund at a rate and in a manner to be determined from time to time by the Lieutenant Governor in Council. 1971, c. 40, s. 1.

Deficiency

(5) If at any time the amount at the credit of the Fund is insufficient to meet the payments out of the Fund, the deficiency shall be made up out of the Consolidated Revenue Fund. R.S.O. 1970, c. 387, s. 5 (6).

Interest payable under Act

6. Except where otherwise specifically provided for by this Act, interest payable under this Act shall be at the rate of 5 per cent per annum compounded annually. R.S.O. 1970, c. 387, s. 6; 1975, c. 73, s. 2.

Contributions, current

7.—(1) There shall be deducted from the salary of every contributor an amount equal to,

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(*a*) 6 per cent of his salary up to the amount of his basic exemption within the meaning of the *Canada Pension Plan*;

(*b*) 4.2 per cent of his salary on the amount in excess of his basic exemption up to the amount of his year's maximum pensionable earnings within the meaning of the *Canada Pension Plan*; and

(*c*) 6 per cent of the amount of his salary in excess of the year's maximum pensionable earnings,

and the amounts so deducted shall be placed to his credit in the Fund.

Cessation of contributions

(2) Every contributor shall cease to contribute to the Fund on the day on which he ceases to be employed in the public service or at the end of the month in which he attains the age of seventy years or, in the case of a provincial judge who was appointed a magistrate before the 1st day of July, 1941, at the end of the month in which he attains the age of seventy-five years, whichever occurs first, but any such person may at any time after attaining the age of sixty-five years give notice in writing to the Board that he wishes to discontinue his contributions, and in every such case his contributions shall cease at the end of the month following the month in which the notice is given. R.S.O. 1970, c. 387, s. 7.

Application to former contributors

(3) Notwithstanding subsection (2), a contributor who ceases to be employed in the public service because the service he provided has been transferred to another public authority, may, subject to the approval of the Lieutenant Governor in Council and to the terms and conditions negotiated between the Board and the other public authority, including the matter of equivalent contribution by the contributor and the other public authority, continue to contribute to the Fund in which case this Act applies as though he were a contributor within the meaning of this Act. 1971, c. 40, s. 2.

Contributions in respect of past service

8.—(1) Every person,

(*a*) who becomes a contributor on or after the 1st day of April, 1960; and

(*b*) who was continuously in the service of the Crown up to the time he became a contributor; and

(*c*) who gives notice in writing to the Board within one year from the date of his appointment to the classified service under the *Public Service Act* of his intention to establish credit in the Fund in respect of his past non-contributory service with the Crown; and R.S.O. 1980, c. 418

(*d*) who agrees to pay on terms satisfactory to the Board and pays an amount equal to the amount that he would have paid if he had contributed to the Fund from the time he commenced his continuous non-contributory service with the Crown, together with interest upon such amount at such rate as the board determines,

is, in reckoning the amount of any allowance or annuity payable to him, entitled to credit in the Fund for the period of service represented by the payments so made. R.S.O. 1970, c. 387, s. 8 (1); 1975, c. 73, s. 3 (1), *revised*.

Exception

(2) Where in the opinion of the Board special circumstances exist, the Board may determine the amount to be paid by a person in lieu of the amount provided in clause (1) (*d*).

Idem, part of past service

(3) Any contributor who is entitled under subsection (1) to establish credit in the Fund in respect of his past continuous non-contributory service with the Crown may establish such credit in respect of a part only of such service, in which case the relevant provisions of this section apply with necessary modifications, but no interval of time shall intervene between such part and the period in respect of which he contributes under section 7.

Commencement of continuous service

(4) For the purposes of this section, the Board may determine the day on which any contributor commenced his continuous non-contributory service with the Crown.

Where payment for such service not paid in reasonable time

(5) This section does not apply where a person does not agree to pay on terms satisfactory to the Board the amount he elected to pay under this section or where the person does not pay the amount he elected to pay under this section together with interest upon such amount within such reasonable time as the Board may determine. R.S.O. 1970, c. 387, s. 8 (2-5).

Open option

(6) Any contributor who is entitled under clauses (1) (*a*) and (*b*) to credit in the Fund but who has failed to establish credit in respect of his continuous non-contributory service with the Crown under clauses (1) (*c*) and (*d*), may elect to establish credit any time before ceasing to be a contributor, and the relevant provisions of this section apply with necessary modifications, except that the rate of salary authorized to be paid to him during his period of non-contributory service shall be deemed to be equal to the last rate of salary authorized to be paid to him during such service or to the rate of salary authorized to be paid to him at the time when he made the election, whichever is greater, and interest shall not be added. 1971 (2nd Sess.), c. 10, s. 2; 1974, c. 37, s. 4; 1975, c. 73, s. 3 (2).

Leave of absence contributions

9.—(1) A contributor who is granted leave of absence of more than one month without salary because of illness or pregnancy may make contributions to the Fund for the period of leave, in which case the contributor shall contribute an amount equal to the amount the contributor would have contributed to the Fund if leave had not been granted, and such contribution shall be made within six months of the termination of leave, or the contributor may elect not to make such contribution, in which case the contributor is not entitled to credit for the period of the leave. 1975, c. 73, s. 4 (1).

Idem

(2) A contributor who is granted leave of absence of more than one month without salary for special or educational purposes may make contributions to the Fund for the period of the leave, in which case he shall contribute an amount equal to the amount he would have contributed to the Fund if he had not been granted the leave together with an amount equal to the amount that would have been credited to the Fund under section 10, and such contribution shall be made within a period of time that is equal to or less than the period of leave, or he may elect not to make such contribution, in which case he is not entitled to credit for the period of the leave.

Idem

(3) Where a contributor is granted leave of absence without salary for educational purposes and he receives bursary assistance as provided for under the *Public Service Act*, R.S.O. 1980, c. 418 the leave shall be deemed for the purposes of this Act to be educational leave of absence with pay, and he shall contribute to the Fund an amount equal to the amount he would have contributed if he had not been granted the leave, and the amount of the contribution shall be deducted from his bursary, unless at the time the contributor is granted the leave of absence, he elects not to make such contribution, in which case he is not entitled to credit for the period of the leave. R.S.O. 1970, c. 387, s. 9 (2, 3).

Open option

(4) Any contributor who is entitled under subsection (1), (2) or (3) to credit in the Fund but who has failed to establish credit in respect of the contributor's period of leave under subsection (1), (2) or (3) may elect to establish credit at any time before ceasing to be a contributor, and the relevant provisions of this section apply with necessary modifications, except that the rate of salary on which the contribution would be based shall be deemed to be equal to the rate of salary authorized to be paid to the contributor at the time the election was made and interest shall not be added. 1975, c. 73, s. 4 (2).

Government's contribution

10.—(1) Except as otherwise provided, where a contribution is credited to the Fund, an equivalent amount shall be credited to the Fund out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 387, s. 10 (1); 1974, c. 37, s. 5.

Designated branches

(2) Where contributors are engaged in a branch of the civil service that has a special fund and the branch is designated for the purpose of this subsection by the Lieutenant Governor in Council, amounts equivalent to the contributions to the Fund of such contributors shall be credited or paid to the Fund out of the special fund of the branch in lieu of the credits to the Fund provided for in subsection (1).

Designated boards, commissions and foundations

(3) Where the Lieutenant Governor in Council designates a board, commission or foundation under section 28, amounts equivalent to the contributions to the Fund of persons who become contributors by reason of such designation shall be paid into the Fund by the board, commission or foundation in lieu of the credits to the Fund provided for in subsection (1). R.S.O. 1970, c. 387, s. 10 (2, 3).

Superannuation allowance, at 65

11.—(1) Subject to subsection (4), every contributor who,

(*a*) has attained the age of sixty-five years; and

(*b*) has contributed to the Fund in respect of a period of ten or more years,

is entitled to a superannuation allowance upon his retirement. R.S.O. 1970, c. 387, s. 11 (1); 1975, c. 73, s. 5 (1).

at 60

(2) Subject to subsection (4), every contributor who,

(*a*) has attained the age of sixty years; and

(*b*) has contributed to the Fund in respect of a period of twenty or more years,

is entitled to a superannuation allowance upon his retirement. R.S.O. 1970, c. 387, s. 11 (2); 1975, c. 73, s. 5 (2).

90 year rule

(3) Subject to subsection (4), every contributor who,

(*a*) ceases to be employed in the public service after the 30th day of November, 1971; and

(*b*) has credit in the Fund for a number of years of service that, when added to his age on the date he ceases to be employed in the public service, totals at least ninety years,

is entitled to a superannuation allowance upon his retirement. 1971 (2nd Sess.), c. 10, s. 3; 1974, c. 37, s. 6; 1975, c. 73, s. 5 (3).

Commencement of entitlement to superannuation allowance

(4) The entitlement to a superannuation allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor retired. 1975, c. 73, s. 5 (4).

Disability allowance

12.—(1) Subject to subsection (2), every contributor who,

(*a*) has contributed to the Fund in respect of a period of ten or more years; and

(*b*) is found by the Board to be unable to perform his duties by reason of mental or physical incapacity,

is entitled to a disability allowance upon termination of his service. R.S.O. 1970, c. 387, s. 12 (1); 1975, c. 73, s. 6 (1).

Commencement of entitlement to disability allowance

(2) The entitlement to a disability allowance, subject to section 14, commences on the first day of the month next following the month in which the contributor terminated his service. 1975, c. 73, s. 6 (2).

Review

(3) The Board may at any time review the case of any person receiving a disability allowance and if, in the opinion of the Board, the person has recovered sufficiently to perform his former or other duties, the Board shall report the case to the Civil Service Commission which shall consider the person for re-employment. 1971 (2nd Sess.), c. 10, s. 4 (1).

Re-employment

(4) Where a person is offered re-employment under this section, his disability allowance ceases whether or not he accepts the offer. R.S.O. 1970, c. 387, s. 12 (3).

Where offer not accepted

(5) Where a person does not accept the offer, he is entitled to a deferred annuity or to an immediate annuity in accordance with the provisions of section 13, except that if he is entitled to an immediate annuity under section 13, the date on which he declined the offer of employment shall be deemed to be the date on which he ceased to be employed under that section. 1975, c. 73, s. 6 (3).

Reduction factors on immediate annuity

(6) Where an immediate annuity is payable under this section, the age of the person at the beginning of the month in which he commenced to receive a disability allowance will be taken into account in applying the reduction factors provided for in section 14. 1971 (2nd Sess.), c. 10, s. 4 (2), *part*.

Deferred annuities

13.—(1) Every contributor who has contributed continuously to the Fund in respect of ten or more years and who is not entitled to an allowance under this Act is entitled to a deferred annuity,

(*a*) commencing when he attains the age of sixty-five years if he ceases to be employed before attaining that age and if he is not entitled to or has not elected to take an immediate annuity provided in subsection (5); or

(*b*) commencing when he attains the age of sixty years if he ceases to be employed before attaining that age and if he has credit in the Fund in respect of employment in the public service before the 1st day of January, 1966. R.S.O. 1970, c. 387, s. 13 (1).

Commencement of entitlement under subs. (1)

(2) The entitlement to a deferred annuity under clause (1) (*a*) or (*b*), subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty-five years or sixty years, respectively. 1975, c. 73, s. 7, *part*.

Idem

(3) Every former contributor who has contributions locked in under subsection 17 (2) and who is not entitled to a payment under subsection 17 (3) is entitled to a deferred annuity commencing,

(*a*) when he attains the age of sixty years if he has credit in the Fund in respect of employment in the public service before the 1st day of January, 1966; or

(*b*) when he attains the age of sixty-five years. R.S.O. 1970, c. 387, s. 13 (2).

Commencement of entitlement under subs. (3)

(4) The entitlement to a deferred annuity under clause (3) (*a*) or (*b*), subject to section 14, commences on the first day of the month next following the month in which the contributor attained the age of sixty years or sixty-five years, respectively. 1975, c. 73, s. 7, *part*.

Immediate annuities

(5) Every contributor who has contributed continuously to the Fund in respect of ten or more years and who is not entitled to an allowance under this Act is entitled to an immediate annuity,

(*a*) commencing when he ceases to be employed in the public service after he has attained the age of sixty years; or

(*b*) subject to subsection (11), commencing when he ceases to be employed in the public service after he has attained the age of fifty-five years and before he has attained the age of sixty years. R.S.O. 1970, c. 387, s. 13 (3); 1971 (2nd Sess.), c. 10, s. 5 (1).

Commencement of entitlement under subs. (5)

(6) The entitlement to an immediate annuity under clause (5) (*a*) or (*b*), subject to section 14, commences on the first day of the month next following the month in which the contributor ceased to be employed. 1975, c. 73, s. 7, *part*.

Idem

(7) Every former contributor who has a deferred annuity and who has attained the age of fifty-five years is, subject to subsection (11), entitled to an immediate annuity. R.S.O. 1970, c. 387, s. 13 (4); 1971 (2nd Sess.), c. 10, s. 5 (2).

Commencement of entitlement under subs. (7)

(8) The entitlement to the immediate annuity under subsection (7), subject to section 14, commences on the first day of the month next following the month in which the contributor elected to take the immediate annuity. 1975, c. 73, s. 7, *part*.

(9) Notwithstanding subsection (8), Idem

(*a*) every former contributor who qualified for a deferred annuity before the 1st day of January, 1966, and who has attained the age of fifty years; or

(*b*) every person who has credit in the Fund in respect of employment in the public service before the 1st day of January, 1966, and who ceases to be employed on or after that date and after he is fifty years of age and before he is sixty years of age or who has a deferred annuity and has attained the age of fifty years,

is, subject to subsection (11), entitled to an immediate annuity computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965. R.S.O. 1970, c. 387, s. 13 (5); 1971 (2nd Sess.), c. 10, s. 5 (3). R.S.O. 1960, c. 332

(10) The entitlement to an immediate annuity under clause (9) (*a*) or (*b*), subject to section 14, commences on the first day of the month next following the month in which the contributor or person elected to take the immediate annuity. 1975, c. 73, s. 7, *part*. Commencement of entitlement under subs. (9)

(11) If a contributor or former contributor has been dismissed from the public service no annuity shall be paid, without the approval of the Lieutenant Governor in Council, under clause (5) (*a*) or (*b*) or under subsection (7) or (9). 1971 (2nd Sess.), c. 10, s. 5 (4). Approval required

14.—(1) The amount of every annual superannuation allowance and annual disability allowance and of every annuity under this Act shall be 2 per cent of the average annual salary of the contributor during the sixty consecutive months of his contributory service during which his salary was highest, multiplied by the total number of full years and any part of a year of contributory service, but not more than thirty-five years of service shall be reckoned. R.S.O. 1970, c. 387, s. 14 (1). Computation of allowances and annuities

(2) The amount computed under subsection (1) shall be reduced by 0.7 per cent of the average annual salary of the contributor during the sixty consecutive months of his contributory service during which his salary was highest, but not exceeding his average maximum pensionable earnings, multiplied by the number of full years and any part of a year of contributory service after the 1st day of January, 1966, but not more than thirty-five years of service shall be reckoned. R.S.O. 1970, c. 387, s. 14 (2); 1974, c. 37, s. 7 (1). C.P.P. reduction

Interpretation

R.S.C. 1970, c. C-5

(3) In subsection (2), "average maximum pensionable earnings" with respect to any contributor means the average of the year's maximum pensionable earnings under the *Canada Pension Plan* for the year in which the contributor ceased to be employed in the public service and for each of the two preceding years. 1974, c. 37, s. 7 (2).

Idem, allowances and annuities

(4) The reduction in subsection (2) does not apply,

(*a*) to a person who ceases to be employed in the public service before the year 1967; or

(*b*) to a person whose disability allowance commences before the 1st day of January, 1971; or

(*c*) in the case of a person who retires or ceases to be employed in the public service before attaining the age of sixty-five years, until he attains the age at which he becomes entitled to a retirement pension under the *Canada Pension Plan* or commences to receive a disability pension under the *Canada Pension Plan*. R.S.O. 1970, c. 387, s. 14 (4); 1971 (2nd Sess.), c. 10, s. 6 (2).

Idem, annuities

(5) The amount of every annuity shall be further reduced or reduced, as the case may be, at the rate of 5 per cent for each year by which the age of the person is less than sixty-five years at the beginning of the month in which he commences to receive the annuity. 1971 (2nd Sess.), c. 10, s. 6 (3).

Where subs. (5) does not apply

(6) The reduction in subsection (5) does not apply to a person who has credit in the Fund in respect of employment in the public service before the 1st day of January, 1966, unless the person receives an immediate annuity before he is sixty years of age, in which case, in lieu of the reduction in subsection (5), the amount of his annuity shall be reduced at the rate of 5 per cent for each year by which his age is less than sixty years at the beginning of the month in which he commences to receive the annuity. R.S.O. 1970, c. 387, s. 14 (6).

Computation of part of year

(7) Where a computation under this section involves part of a year, the computation in respect of that part shall be made on a monthly basis, and,

(*a*) any part of a month less than fifteen days shall be disregarded; and

(b) any part of a month not less than fifteen days shall be deemed to be a month. R.S.O. 1970, c. 387, s. 14 (8).

Guarantee

(8) Subject to subsection (9), a person who was a contributor to the Fund on the 31st day of December, 1965, and who has been employed in the public service without an interruption of over three months since that date shall, if he becomes entitled to an allowance or an annuity, receive an annual allowance or an annuity equal to that which he would have received if it had been computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965. R.S.O. 1970, c. 387, s. 14 (9); 1974, c. 37, s. 7 (4).

R.S.O. 1960, c. 332

Idem

(9) When a person referred to in subsection (8) attains the age at which he becomes entitled to a retirement pension under the *Canada Pension Plan* or commences to receive a disability pension under the *Canada Pension Plan*, his annual allowance or his annuity shall be recomputed under this section, and, if the amount thereof together with the pension he is then entitled to or is receiving under the *Canada Pension Plan*, other than that part derived from contributions made after he ceased to be employed in the public service, is less than the amount that he qualified for or received under subsection (8), the amount of the difference shall be added to the amount of his annual allowance or his annuity as so recomputed. R.S.O. 1970, c. 387, s. 14 (10); 1971 (2nd Sess.), c. 10, s. 6 (4).

R.S.C. 1970, c. C-5

Death of annuitant

15. Except as provided in section 20, where an annuitant dies, an amount equal to the amount of his contributions to the Fund with interest, less the amount of the annuity paid to him, shall be paid to his personal representative. R.S.O. 1970, c. 387, s. 15.

Re-employment of superannuate

16.—(1) Where a former contributor is, in the opinion of the Board, re-employed or engaged in any capacity in the service of the Crown, any allowance or annuity to which he is entitled during such re-employment or engagement shall, with respect to any period of three months, commencing on the 1st day of January, April, July or October in any year, during which he is at any time so re-employed or engaged, be reduced by the amount by which the sum of,

(a) three times the monthly salary authorized to be paid to him during that period of three months of his re-employment or engagement; and

(*b*) the allowance or annuity which would be payable to him during that period of three months if he were not re-employed or engaged,

exceeds the amount equal to three times the monthly salary payable to him during the last full month of his employment before he became entitled to the allowance or annuity. 1971, c. 40, s. 3.

Idem

(2) Subject to subsection (3), any period of re-employment referred to in subsection (1) during which a person contributes under this Act shall be added to the period of his prior employment, and the allowance or the annuity payable upon termination of his re-employment shall be recalculated accordingly. R.S.O. 1970, c. 387, s. 16 (2); 1974, c. 37, s. 8 (1).

Special case

(3) Where a person referred to in subsection (2) was receiving an immediate annuity under clause 13 (5) (*b*) or subsection 13 (7) or (9), the recalculation under subsection (2) shall be adjusted by the Board to take into account the amount of the annuity he has received. 1974, c. 37, s. 8 (2).

Re-employment in expert capacity

R.S.O. 1980, c. 418

(4) Notwithstanding subsections (1) and (2), where a person in receipt of an allowance or annuity has been or is appointed under the *Public Service Act*, or any predecessor thereof, because the Lieutenant Governor in Council desires to have such person's professional, expert or technical knowledge at his disposal, payment of the allowance or annuity shall not be suspended or recalculated. R.S.O. 1970, c. 387, s. 16 (3).

Refunds

17.—(1) Where a contributor,

(*a*) resigns or is dismissed and is not entitled to or granted an allowance or an immediate annuity; or

(*b*) dies leaving no widow or widower, or no child or children under the age of eighteen years,

an amount equal to the total of his or her contributions to the Fund with interest shall be paid to him or her in monthly instalments or otherwise as he or she directs or to his or her personal representative, as the case may be. 1974, c. 37, s. 9.

Contributions locked in

(2) Notwithstanding subsection (1), a contributor,

(*a*) who has attained the age of forty-five years;

(*b*) who has contributed to the Fund in respect of a period of ten or more years; and

(*c*) who resigns or is dismissed,

is not entitled to a refund of his contributions to the Fund in respect of service rendered after the 31st day of December, 1964.

Exception

(3) Notwithstanding subsection (2), where the deferred annuity in respect of service rendered after the 31st day of December, 1964, is less than $10 a month, it may be commuted for a cash sum. R.S.O. 1970, c. 387, s. 17 (2, 3).

Retirement or death before superannuation

18. Where a contributor who,

(*a*) has attained the age of sixty-five years retires and is not entitled to a superannuation allowance or annuity; or

(*b*) is found by the Board to be unable to perform his or her duties by reason of mental or physical incapacity and whose service is terminated in circumstances under which he or she is not entitled to a disability allowance or annuity; or

(*c*) has contributed to the Fund in respect of a period of less than ten years dies leaving a widow or widower or a child or children under the age of eighteen years,

twice the amount of his or her contributions under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him or her to credit in the Fund, with interest thereon, shall be paid to him or her in monthly instalments or otherwise as he or she directs or to his widow or her widower or child or children, as the case may be. 1971 (2nd Sess.), c. 10, s. 7; 1975, c. 73, s. 8.

Death of person in receipt of allowance

19. Except as provided in section 20, where a person who is in receipt of an allowance dies, an amount equal to the amount of his contributions with interest, less the amount of the allowance paid to him, shall be paid to his personal representative. R.S.O. 1970, c. 387, s. 19.

Interpretation

20.—(1) For the purposes of subsections (2) and (5) to (10), "allowance" includes an annuity, and, in the case of a deferred annuity, it shall be deemed that it is being paid.

Allowances to widows, etc.

(2) Subject to subsection (4), where a contributor who has contributed to the Fund in respect of a period of ten or more years, or a person to whom an allowance is being paid,

(*a*) dies leaving a widow, an amount equal to,

(i) one-half of the allowance computed in the manner provided in subsections 14 (1) to (7) but based on the deceased's employment to the time of his death, or

(ii) one-half of the allowance that the deceased was receiving at the date of his death,

as the case may be, shall be paid to his widow during her life or during her widowhood, and, where the widow dies or marries leaving a child or children of the former contributor who at the date of her death or marriage is or are under the age of eighteen years, an amount equal to that paid to the widow shall be paid to the child or children until such age is attained; or

(*b*) dies leaving no widow, but leaving a child or children under the age of eighteen years, an amount equal to,

(i) one-half of the allowance computed in the manner provided in subsections 14 (1) to (7) but based on the deceased's employment to the time of his death, or

(ii) one-half of the allowance that the deceased was receiving at the date of his death,

as the case may be, shall be paid to the child or children until such age is attained. R.S.O. 1970, c. 387, s. 20 (1, 2).

Commencement of entitlement to payment under subs. (2)

(3) The entitlement to the payment,

(*a*) of the amount referred to in subclause (2) (*a*) (i) or (ii); or

(*b*) of the amount referred to in subclause (2) (*b*) (i) or (ii),

commences on the first day of the month next following the month in which the contributor or person died. 1975, c. 73, s. 9 (1).

Exceptions

(4) Where a person who was receiving an allowance or an annuity dies without having attained the age of sixty-five years at the date of his death, the allowance or annuity payable to the widow, or child or children, as the case may be, shall be one-half of the allowance or the annuity that he would have received at the beginning of the month following the month in which he would have attained such age. 1971 (2nd Sess.), c. 10, s. 8 (1).

Maximum reduction

(5) In computing an allowance under this section, the reduction referred to in subsection 14 (5) shall not exceed 50 per cent.

Where payments less than contributions

(6) Where the payments made under subsection (2) or the amount of the allowance and any payments made under subsection (2), as the case may be, are less than the amount of the contributions of the deceased with interest, the amount of the difference shall be paid to his personal representative. R.S.O. 1970, c. 387, s. 20 (4, 5).

Post-retirement marriages

(7) Subsection (2) does not apply to the widow of a contributor or of a person to whom an allowance was being paid if she married him after the date of his retirement or to the child or children of such marriage, but an amount equal to twice the amount of his contributions under section 7, with interest thereon, together with all other moneys paid into the Fund that entitle him to credit in the Fund, with interest thereon, less the total amount of the allowance, if any, paid to him shall be paid to his widow or child or children, as the case may be. R.S.O. 1970, c. 387, s. 20 (6); 1975, c. 73, s. 9 (2).

Where deceased was a widow with children

(8) Where the contributor or the person to whom an allowance was being paid was a widow who died leaving a child or children, subsection (2) applies with necessary modifications to the child or children. R.S.O. 1970, c. 387, s. 20 (7).

Widower's allowance

(9) Where the contributor or the person to whom an allowance was being paid dies leaving a widower, this section applies with necessary modifications to him. R.S.O. 1970, c. 387, s. 20 (8); 1971 (2nd Sess.), c. 10, s. 8 (2).

Exception

(10) Where a contributor who had credit in the Fund on the 8th day of July, 1966,

(*a*) dies before the 1st day of January, 1969; or

(*b*) ceases to be employed before that day and subsequently dies,

leaving a widow or child or children, the allowance otherwise payable under this section shall be computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965. R.S.O. 1970, c. 387, s. 20 (9).

R.S.O. 1960, c. 332

Exception for higher education

(11) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board for the purposes of this section as a place of higher education, shall be deemed not to have attained the age of eighteen years. 1974, c. 37, s. 10.

Long term income protection plan

21.—(1) In this section, "approved long term income protection plan" means a plan established pursuant to the *Public Service Act*.

R.S.O. 1980, c. 418

Contribution on behalf of disabled contributor

(2) Where a contributor who is not in receipt of an allowance or annuity under this Act and whose disability was incurred on or after the 1st day of July, 1974 has qualified for a benefit under an approved long term income protection plan, whether or not he is in receipt of such benefit, a contribution shall be made to the Fund on behalf of the contributor, out of moneys appropriated therefor by the Legislature, for each month or part of a month in respect of which the contributor continues to qualify for such a benefit and the contribution shall be 6 per cent of the salary authorized to be paid to the contributor in the month immediately prior to the month in which he qualified for the benefit.

Period deemed contributory service

(3) The period for which contributions are required to be made under subsection (1) shall be counted as contributory service. 1975, c. 73, s. 10.

Payment of allowances and annuities

22. An allowance or annuity to which a person becomes entitled under this Act is payable in monthly instalments commencing with the month in which the person becomes entitled thereto, but in the first instance payment thereof shall commence as soon as practicable after the entitlement thereto occurred. 1975, c. 73, s. 11.

Cessation of allowances and annuities

23. Except as otherwise provided in this Act, an allowance or annuity shall cease on the last day of the month during which the entitlement thereto ceases. R.S.O. 1970, c. 387, s. 22.

Sheriffs, persons engaged in administration of justice

24.—(1) This Act applies to,

(*a*) every sheriff; and

(*b*) every person or class of persons connected with the administration of justice who or that are designated by the Lieutenant Governor in Council,

whether paid by fees or salary or partly by fees and partly by salary.

Computation of contributions

(2) Where a person or class of persons designated under subsection (1) is paid by fees or partly by fees, the contributions payable under this Act in respect of fees shall be computed upon the net income, within the meaning of the *Public Officers' Fees Act*, payable for the preceding year in respect of the office occupied by him and his allowance or annuity shall be computed accordingly. R.S.O. 1970, c. 387, s. 23.

R.S.O. 1980, c. 416

Registrars of deeds

25. This Act applies to every full-time registrar of deeds. R.S.O. 1970, c. 387, s. 24.

Application of Act to provincial judges

26. This Act applies to every full-time provincial judge. R.S.O. 1970, c. 387, s. 25.

Interpretation

27.—(1) In this section, "contributions" means a person's contributions, the Government's contributions with respect thereto and interest on both such contributions at 6 per cent per annum compounded annually. R.S.O. 1970, c. 387, s. 26 (1); 1974, c. 37, s. 11 (1).

Teachers becoming civil servants

(2) Where a person who has contributions in the Teachers' Superannuation Fund becomes a civil servant engaged as a teacher in a ministry of the Government or as an inspector or in a supervisory capacity in the Ministry of Education, he may elect to continue as a contributor under the *Teachers' Superannuation Act* or to become a contributor under this Act and he shall send written notice thereof to the Teachers' Superannuation Commission and to the Board within sixty days of his appointment as a civil servant and, if he fails to send such notice in accordance with this subsection, he shall continue as a contributor under the *Teachers' Superannuation Act*. R.S.O. 1970, c. 387, s. 26 (2); 1972, c. 1, ss. 1, 2.

R.S.O. 1980, c. 494

Idem

(3) Where a person who has contributions in the Teachers' Superannuation Fund becomes a civil servant and he elects to become a contributor under this Act in accordance with subsection (2) or he is engaged in a capacity other than any of those mentioned in subsection (2), he shall contribute under this Act. R.S.O. 1970, c. 387, s. 26 (3).

Service credits

(4) Where the contributions of a person mentioned in subsection (3) are transferred from the Teachers' Superannuation

Fund to the Fund, the Board may allow him such credit in the Fund in respect of the amount so transferred and the period of service represented thereby as the Board may determine.

Contributors to Fund becoming teachers
R.S.O. 1980, c. 494

(5) Where a former contributor to the Fund who is not in receipt of an allowance or an annuity is employed within the meaning of the *Teachers' Superannuation Act*, his contributions in the Fund shall, if he so requests in writing before a refund is made, be transferred to the Teachers' Superannuation Fund. R.S.O. 1970, c. 387, s. 26 (6).

Boards, commissions, etc.

28. This Act applies,

(*a*) to the permanent and full-time probationary staff of any board, commission or foundation established under any Act of the Legislature that is designated by the Lieutenant Governor in Council; and

(*b*) to any full-time member of any such board, commission or foundation,

(i) who holds a position that is designated by the Lieutenant Governor in Council as a position to which this Act may apply, and

(ii) whose request therefor in writing has been approved by the Lieutenant Governor in Council. 1971, c. 40, s. 5.

Interpretation

29.—(1) In this section, "pensionable service" of a contributor means service in respect of which he has made contributions to the pension fund of an employer recognized in subsection (3). 1974, c. 37, s. 12, *part*.

Transfer from Fund to another superannuation fund

(2) Where a contributor, within three months after leaving the service of the Crown, becomes a member of,

(*a*) the civil service of Canada or of any province of Canada;

(*b*) the civic service of any municipality in Ontario;

(*c*) the staff of any board, commission or public institution established under any Act of the Legislature of Ontario;

(*d*) the staff of,

(i) any Government related agency,

(ii) any public institution that is assisted by money appropriated by the Legislature, and

(iii) any corporation the controlling interest of which is owned by the Crown in right of Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council;

(*e*) the staff of any Crown corporation of Canada or of any province of Canada;

(*f*) the staff of any university in Ontario or of any college of applied arts and technology to which the *Ministry of Colleges and Universities Act* applies; R.S.O. 1980, c. 272

(*g*) the Canadian Forces; or

(*h*) the clergy of a religious denomination in any province of Canada having been a chaplain in the public service of Ontario,

a sum of money equal to his contributions and such portion, if any, of the Government's contributions with respect thereto, as the Board determines, with interest at such rate as the board determines, shall be paid out of the Fund into any like fund or registered pension plan of a religious denomination maintained to provide superannuation benefits for the members of such civil or civic service or staff or the Canadian Forces or clergy, as the case may be. 1974, c. 37, s. 12, *part*; 1975, c. 73, s. 12 (1).

Transfer from another superannuation fund to Fund

(3) A contributor who, within three months before entering the service of the Crown, had pensionable service as a member of,

(*a*) the civil service of Canada or of any province of Canada;

(*b*) the civic service of any municipality in Ontario;

(*c*) the staff of any board, commission or public institution established under any Act of the Legislature of Ontario;

(*d*) the staff of,

(i) any Government related agency,

(ii) any public institution that is assisted by money appropriated by the Legislature, and

(iii) any corporation the controlling interest of which is owned by the Crown in right of Ontario or whose bonds or debentures are guaranteed by the Crown in right of Ontario,

that is designated by the Lieutenant Governor in Council;

(*e*) the staff of any Crown corporation of Canada or of any province of Canada;

(*f*) the staff of any university in Ontario or of any college of applied arts and technology to which the *Ministry of Colleges and Universities Act* applies;

R.S.O. 1980, c. 272

(*g*) the Canadian Forces; or

(*h*) the practising clergy contributing to a registered pension plan of his religious denomination in any province of Canada and who becomes a chaplain in the public service of Ontario,

may count such pensionable service for the purposes of this Act if,

(*i*) he elected to pay into the Fund within one year after the 18th day of June, 1974; or

(*j*) he elects to pay into the Fund within one year after becoming a contributor,

and agrees to pay on terms satisfactory to the Board and pays an amount equal to twice the amount that he would have paid if he had contributed to the Fund during such pensionable service except that the rate of contribution for service before the 1st day of January, 1966 shall be 6 per cent and thereafter in accordance with section 7 and the rate of salary authorized to be paid to him during the period of such pensionable service shall be deemed to be equal to the rate of salary authorized to be paid to him at the time he became a contributor under this Act, together with interest at such rate as the Board determines. 1974, c. 37, s. 12, *part*; 1975, c. 73, s. 12 (2, 3), *revised*.

Civil or civic pensionable service

(4) A contributor who is entitled under subsection (3) to establish credit in the Fund and who had civil or civic pensionable service, or both, may establish credit in respect of any or all of such pensionable service provided the periods of employment were not interrupted for more than three months at any time.

Part service

(5) A contributor who is entitled under subsection (3) to establish credit in the Fund may establish credit in respect of a part only of his pensionable service, in which case the relevant provisions of this section apply with necessary modifications. 1974, c. 37, s. 12, *part*.

Open option

(6) A contributor who is entitled under subsection (3) to establish credit in the Fund for his pensionable service but who has failed to establish credit under subsection (3) may elect to establish credit at any time before ceasing to be a contributor, and the relevant provisions of this section apply with necessary modifications, except that the rate of salary authorized to be paid to him at the time he became a contributor shall be deemed to be equal to the rate of salary authorized to be paid to him at the time when he made the election and interest shall be added at such rate as the Board determines. 1974, c. 37, s. 12, *part*; 1975, c. 73, s. 12 (4).

Exception

(7) No contributor shall be given credit in the Fund in respect of his pensionable service for which he is entitled to credit in his previous employer's pension fund unless he withdraws his contributions from such pension fund or arranges for them to be transferred to the Fund. 1974, c. 37, s. 12, *part*.

Agreements authorized

(8) Notwithstanding subsections (2) and (3), the Minister, subject to the approval of the Lieutenant Governor in Council, may enter into an agreement with any government, municipality, board, commission, public institution, corporation, Government related agency or religious denomination mentioned therein to provide reciprocal arrangements for the transfer of contributions and credits, and, where such an agreement exists, such transfers shall be in accordance with the agreement. 1974, c. 37, s. 12, *part*; 1975, c. 73, s. 12 (5).

Idem

(9) An agreement entered into under subsection (8) may provide that, for the purpose of computing the minimum requirement of ten years of service for an allowance or an annuity, service rendered to the other party to the agreement may be included up to the maximum set forth in the agreement, and any such allowance or annuity shall then be computed upon the service for which contributions have been made to the Fund.

Application of s. 10 (1)

(10) Subsection 10 (1) does not apply with respect to any amount credited to the Fund under this section. 1974, c. 37, s. 12, *part*.

Reinstatement when re-employed

30.—(1) A former contributor who was or is re-employed and who has become or becomes a contributor under this Act may reinstate his account in the Fund.

Election to reinstate where prior contributions withdrawn

(2) If a contributor who has withdrawn his prior contributions with interest thereon elects, within one year after again becoming a contributor, to reinstate his account under subsection (1), he shall pay into the Fund an amount equal to the amount that he would have paid if he had contributed to the Fund during his prior service except that the rate of contribution shall be 6 per cent for service before the 1st day of January, 1966 and thereafter in accordance with section 7 and the rate of salary authorized to be paid to him during his period of prior service shall be deemed to be equal to the rate of salary authorized to be paid to him on the most recent occasion on which he became a contributor under this Act, together with interest at such rate as the Board determines.

Where prior contributions not withdrawn

(3) Where a contributor who elects to reinstate his account under subsection (1) has not withdrawn his prior contributions with interest thereon, the amount of such contributions shall, in lieu of being paid to him, be applied on account of the amount required by this section to be paid by him to reinstate his account in the Fund.

Part of past service

(4) A contributor who is entitled under subsection (1) to reinstate his account may re-establish credit in respect of a part only of his prior service, in which case the relevant provisions of this section apply with necessary modifications. 1974, c. 37, s. 13, *part, revised*.

Open option

(5) A contributor who is entitled under subsection (1) to reinstate his account but who has failed to do so under subsection (2) may elect to re-establish credit at any time before ceasing to be a contributor, and the relevant provisions of this section apply with necessary modifications, except that the rate of salary authorized to be paid to him on the most recent occasion on which he became a contributor shall be deemed to be equal to the rate of salary authorized to be paid to him at the time when he made the election and interest shall be added at such rate as the Board determines. 1974, c. 37, s. 13, *part*; 1975, c. 73, s. 13.

Military service

31.—(1) Every contributor who was on active service during World War II or the Korean War,

(*a*) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine; or

(*b*) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

may, on producing proof of such service, establish credit in the Fund in respect of such service. 1975, c. 73, s. 14 (1).

Credit for military service

(2) A contributor who is entitled under subsection (1) to establish credit in the Fund and who,

(*a*) elected within two years after the 18th day of June, 1974; or

(*b*) elects within one year after becoming a contributor,

to establish such credit is entitled to credit in the Fund for such active service if he agrees to pay on terms satisfactory to the Board and pays an amount equal to 12 per cent of the rate of salary authorized to be paid to him on the most recent occasion on which he became a contributor under this Act for each year and part of a year of such active service, together with interest at such rate as the Board determines. 1974, c. 37, s. 14, *part*; 1975, c. 73, s. 14 (2).

Part of service

(3) A contributor who is entitled under subsection (1) to establish credit in the Fund may establish credit in respect of a part only of such active service, in which case the relevant provisions of this section apply with necessary modifications. 1974, c. 37, s. 14, *part*.

Open option

(4) A contributor who is entitled under subsection (1) to establish credit in the Fund but who has failed to establish credit under subsection (2) may elect to establish credit at any time before ceasing to be a contributor, and the relevant provisions of this section apply with necessary modifications, except that the rate of salary authorized to be paid to him on the most recent occasion on which he became a contributor shall be deemed to be equal to the rate of salary authorized to be paid to him at the time when he made the election and interest shall be added at such rate as the Board determines. 1974, c. 37, s. 14, *part*; 1975, c. 73, s. 14 (3).

Exception

(5) No contributor shall be given credit in the Fund in respect of such active service if he is entitled to credit for such service in computing another pension, except a pension granted for a disability resulting from war service.

Application of s. 10 (1)

(6) Subsection 10 (1) does not apply with respect to any amount credited to the Fund under this section. 1974, c. 37, s. 14, *part*.

Custodian of Fund

32. The Treasurer is custodian of the Fund. R.S.O. 1970, c. 387, s. 30.

Audit

33. The Fund shall be audited by the Provincial Auditor, and he shall make an annual report in respect of the preceding fiscal year to the Treasurer, and the Treasurer shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 387, s. 31.

No attachment, etc.

34.—(1) The interest of any person in the Fund or in any allowance, annuity, refund or other sum payable out of the Fund is not subject to garnishment, attachment, seizure or other process of law and, subject to subsection (2), is not assignable.

Payments into other funds

(2) Where a former contributor who is entitled to a refund or a lump-sum payment from the Fund requests in writing to the Board to have the refund or payment paid into another registered pension plan or into a registered retirement savings plan, the refund or payment shall be so paid. R.S.O. 1970, c. 387, s. 32.

Where person indebted to Crown

35. Where a person who leaves the service of the Crown is indebted to the Crown, the amount of such indebtedness shall be deducted from any payment to which he or his personal representative is entitled under this Act. R.S.O. 1970, c. 387, s. 33.

Where no personal representative

36. Where a person dies in circumstances under which a refund under this Act is payable to his personal representative but there is no personal representative, the refund may be paid to such person as the Board determines. R.S.O. 1970, c. 387, s. 34.

Refund to estate of deceased contributor where spouse or child cannot be found

37.—(1) Where a spouse or child of a deceased contributor cannot be found and the Board is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death of the contributor, the Board may, notwithstanding any other provision of this Act, direct that the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate upon such terms and conditions as the Board directs.

Where spouse or child later found

(2) Where the spouse or child referred to in subsection (1) is subsequently found and a claim is made for any moneys payable under this Act, the Board may direct that such

moneys, less any moneys paid under subsection (1), be paid to the spouse or child, as the case may be. 1975, c. 73, s. 15, *part*.

Payment to child or estate of deceased contributor where spouse not entitled to or refuses to accept moneys

38. Where a contributor dies and any moneys are payable under this Act to his spouse and the Board is satisfied that the spouse is not entitled to receive such moneys by virtue of a separation agreement or other contractual arrangement entered into with the contributor before he died or that the spouse has refused to accept such moneys, the Board may direct that,

(*a*) where there is a child under the age of eighteen years, the moneys be paid in accordance with this Act as if there were no spouse; and

(*b*) if there is no child under the age of eighteen years, the moneys that would be payable under this Act to the deceased contributor's estate if the contributor had died leaving no widow or widower and no child be paid to the deceased contributor's estate. 1975, c. 73, s. 15, *part*.

Annual report

39.—(1) The Board shall make a report annually to the Minister containing such information as the Minister requires. R.S.O. 1970, c. 387, s. 35 (1); 1972, c. 1, s. 76 (5).

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 387, s. 35 (2); 1972, c. 1, s. 76 (6).

Cost of administration

40. The cost of administration of this Act is payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 387, s. 36.

Regulations

41. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the proofs to be furnished as a condition to the payment of an allowance or an annuity;

(*b*) prescribing the times at which and the manner in which contributions to the Public Service Superannuation Fund shall be made by any class of contributors with respect to which special circumstances exist;

(*c*) determining the maximum number of years of contribution to the Public Service Superannuation

Fund, the maximum amount of contribution to that Fund or the maximum salary on which contributions to that Fund shall be reckoned;

(*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 387, s. 37.

Amount of benefits existing before Jan. 1, 1966, not changed

42. Nothing in this Act increases or decreases the amount of any allowance or annuity that was being paid or to which a former contributor had become entitled under this Act immediately before the 1st day of January, 1966. R.S.O. 1970, c. 387, s. 38.

Augmentation of allowances and annuities

43.—(1) The Lieutenant Governor in Council, for the purpose of augmenting from time to time allowances and annuities being paid under this Act, may make regulations providing for the payment of supplementary benefits and minimum amounts to persons receiving allowances or annuities under this Act and prescribing the minimum amounts and the amounts of such benefits, the times at which they shall be paid and the classes of persons entitled thereto.

Moneys required to augment allowances, etc.

(2) The moneys required for the purposes of subsection (1) shall be credited to the Fund out of the Consolidated Revenue Fund. 1975, c. 73, s. 16.

CHAPTER 420

Public Service Works on Highways Act

1. In this Act, Interpretation

(*a*) "appliances or works" means poles, wires, conduits, transformers, pipes, pipe lines or any other works, structures or appliances placed on or under a highway by an operating corporation;

(*b*) "cost of labour" means,

(i) the actual wages paid to all workmen up to and including the foremen for their time actually spent on the work and in travelling to and from the work, and the cost of food, lodging and transportation for such workmen where necessary for the proper carrying out of the work,

(ii) the cost to the operating corporation of contributions related to such wages in respect of workmen's compensation, vacation pay, unemployment insurance, pension or insurance benefits and other similar benefits,

(iii) the cost of using mechanical labour-saving equipment in the work,

(iv) necessary transportation charges for equipment used in the work, and

(v) the cost of explosives;

(*c*) "operating corporation" means a municipal corporation or commission or a company or individual operating or using a telephone or telegraph service, or transmitting, distributing or supplying electricity or artificial or natural gas for light, heat or power and includes Ontario Hydro;

(*d*) "road authority" means the Ministry of Transportation and Communications, a municipal corporation, board, commission, or other body having control of the construction, improvement, alteration, main-

tenance and repair of a highway and responsible therefor. R.S.O. 1970, c. 388, s. 1; 1972, c. 1, s. 100 (2); 1973, c. 57, s. 19.

Notice to operating corporation to take up works

2.—(1) Where in the course of constructing, reconstructing, changing, altering or improving a highway it becomes necessary to take up, remove or change the location of appliances or works placed on or under the highway by the operating corporation, the road authority may by notice in writing served personally or by registered mail require the operating corporation, without prejudice to their respective rights under section 3, so to do on or before the date specified in the notice.

Apportionment of costs of taking up

(2) The road authority and the operating corporation may agree upon the apportionment of the cost of labour employed in such taking up, removal or change, but, subject to section 3, in default of agreement such cost shall be apportioned equally between the road authority and the operating corporation, and all other costs of the work shall be borne by the operating corporation.

Minimum time interval

(3) The date specified in a notice under subsection (1) shall be as agreed upon by the road authority and the operating corporation, but in default of agreement shall be not less than sixty days after the date of the personal service or mailing of the notice.

Additional time

(4) An operating corporation may, upon such notice as the judge of the county or district court of the county or district in which the work or the greater part of it is situate directs, apply to the judge for an order altering to a later date the date specified in the notice given under subsection (1), and, if the judge finds that the physical or technical difficulties in complying with the notice require additional time, he may make such order as he considers appropriate.

Compensation

(5) Where a road authority incurs a loss or expense by reason of an operating corporation neglecting to take up, remove or change the location of appliances or works by the date specified in a notice given under subsection (1) or such date as altered by a judge under subsection (4), the operating corporation shall make due compensation to the road authority for such loss or expense, and a claim for compensation, if not agreed upon by the operating corporation and the road authority, shall be determined by the Ontario Municipal Board. R.S.O. 1970, c. 388, s. 2.

Apportionment of cost by Municipal Board

3. Where it is made to appear to the Ontario Municipal Board, upon application made to it, that the circumstances

and conditions under which any of the appliances or works mentioned in section 2 have been placed on or under a highway, or that other special conditions render it unfair or unjust that the cost of taking up, removing or changing the location of the works should be apportioned and paid as provided in section 2, the Board, upon the application of the road authority or operating corporation, may apportion the cost of the taking up, removing or changing the works in such manner as appears to it to be equitable, and the decision of the Board is final and is not subject to appeal. R.S.O. 1970, c. 388, s. 3.

CHAPTER 421

Public Transportation and Highway Improvement Act

Interpretation

1. In this Act,

(*a*) "Board" means the Ontario Municipal Board;

(*b*) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;

(*c*) "construction" includes reconstruction;

(*d*) "Deputy Minister" means the Deputy Minister of Transportation and Communications;

(*e*) "highway" means a common or public highway, or any part thereof, and includes a street, bridge and any other structure incidental thereto and any part thereof;

(*f*) "land" includes an estate, term, easement, right or interest in, to, over or affecting land;

(*g*) "maintenance" includes repair;

(*h*) "Minister" means the Minister of Transportation and Communications;

(*i*) "Ministry" means the Ministry of Transportation and Communications;

(*j*) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;

(*k*) "public utilities commission" means a commission or board having the control and management of a public utility undertaking in a municipality;

(*l*) "regulations" means the regulations made under this Act;

(*m*) "road" has the same meaning as highway;

(*n*) "road authority" means a body having jurisdiction and control of a highway;

(*o*) "roadway" means that part of a highway designed or intended for use by vehicular traffic. R.S.O. 1970, c. 201, s. 1; 1972, c. 1, s. 100 (2); 1980, c. 8, s.1.

PART I

LAND ACQUISITION, HIGHWAYS AND OTHER WORKS

Property vested in Crown

2.—(1) All property acquired under this Part is vested in the Crown and is under the jurisdiction and control of the Ministry. R.S.O. 1970, c. 201, s. 2 (1); 1972, c. 1, s. 1.

Property may be sold, etc.

(2) Subject to subsection 5 (2), all property that is under the jurisdiction and control of the Ministry may be leased, sold or otherwise disposed of by the Minister. R.S.O. 1970, c. 201, s. 2 (2); 1972, c. 1, s. 1.

Use of space and areas over or under highway

(3) The Minister may authorize any ministry or agency of the Crown or any municipality, including a district, metropolitan or regional municipality, or a local board thereof or any corporation or person, by lease, licence or other arrangement,

(*a*) to use; or

(*b*) to construct, maintain and use buildings, structures or improvements in or on,

any space or area located over, across or under a highway under the jurisdiction of the Ministry where, in the opinion of the Minister, such construction, maintenance or use can be carried out without unduly interfering with the public use of the highway. R.S.O. 1970, c. 201, s. 2 (3); 1972, c. 1, ss. 1, 2.

Instruments creating rights analogous to easements

3.—(1) A right or interest in, over, above, upon, across, along, through, under or affecting any land or any covenant or condition relating thereto in favour of the Crown, in respect of any highway or other works under the jurisdiction and control of the Ministry, is valid and enforceable in accordance with the terms of the instrument granting, creating or containing them, notwithstanding that the right or interest or the benefit of the covenant or condition is not appurtenant or annexed to or for the benefit of any land of the Crown.

Terms of instrument binding on successors

(2) On and after the registration of an instrument to which subsection (1) applies in the proper land registry office, all the rights, interests, covenants and conditions granted or created by or contained in the instrument are binding upon and enure to the benefit of the heirs, successors, personal representatives and assigns of the parties to the instrument.

Liability of grantor for breach of covenant limited

(3) A party to an instrument to which subsection (1) applies or a person to whom subsection (2) applies is not liable for breach of a covenant or condition contained in the instrument committed after he ceased to be the owner of the land therein mentioned, or after he ceased to hold the interest in the land by virtue of which he or his predecessor in title executed the instrument.

Land to remain subject to instrument when sold for taxes

(4) Where the land mentioned in an instrument to which subsection (1) applies is sold for taxes, the land shall be deemed to have been sold subject to any right or interest granted or created by and any condition or covenant contained in the instrument.

Application

(5) This section applies notwithstanding that such right, interest, covenant or condition was granted or created by or contained in an instrument executed before the date this section comes into force. 1973, c. 67, s. 2, *part*.

Persons who may sign plans

R.S.O. 1980, c. 148

4. Where this Act or the *Expropriations Act* requires a plan or other instrument under this Act, other than an order in council mentioned in section 7 or 36, to be registered in the proper land registry office or deposited with the Minister of Natural Resources, the plan or instrument shall be signed by an Ontario Land Surveyor and one of the following:

1. The Minister.
2. The Deputy Minister.
3. An Assistant Deputy Minister of the Ministry.
4. The Chief Surveyor of the Ministry. 1973, c. 67, s. 2, *part*.

Crown Land Plans

5.—(1) Where the Minister desires to acquire any Crown lands not under the jurisdiction and control of the Ministry that he considers necessary for the purposes of the Ministry, he shall deposit with the Minister of Natural Resources and register in the proper land registry office a plan of the land to be known and marked "Crown Land Plan" and thereupon the land is under the jurisdiction and control of the Ministry.

Crown land no longer required

(2) Where the jurisdiction and control of Crown lands is no longer required by the Ministry, the Minister may, with the approval of the Minister of Natural Resources, by a writing deposited with the Minister of Natural Resources and registered in the proper land registry office, declare that the jurisdiction and control of the land is no longer required and thereupon such land is under the jurisdiction and control of the Ministry of Natural Resources. 1973, c. 67, s. 3.

Power to enter on land, etc.

6. The Minister or any person authorized by him may, without the consent of the owner,

(*a*) enter upon and use any land;

(*b*) alter in any manner any natural or artificial feature of any land;

(*c*) construct and use roads on, to or from any land; or

(*d*) place upon or remove from any land any substance or structure,

for any purpose of this Part. R.S.O. 1970, c. 201, s. 4.

Designation of the King's Highway

7.—(1) The Lieutenant Governor in Council may designate a highway or proposed highway as the King's Highway. R.S.O. 1970, c. 201, s. 5.

Registration of order in council

(2) The order in council designating a highway or proposed highway as the King's Highway shall be registered in the proper land registry office and any such order in council heretofore registered shall be deemed to have been required to be so registered. 1973, c. 67, s. 4.

Procedure for acquiring a highway

8.—(1) Where the Minister desires to acquire an existing highway, he shall register in the proper land registry office,

Assumption Plan

(*a*) a plan of the highway to be known as and marked "Assumption Plan"; or

Notice of Assumption

(*b*) a notice to be known as and marked "Notice of Assumption" referring to a plan of the highway registered in the proper land registry office,

and thereupon the highway vests in the Crown and the Minister forthwith shall give notice in writing of such vesting to any municipality concerned.

Preliminary Assumption Plan

(2) The Minister, before registering an "Assumption Plan", may register in the proper land registry office, a preliminary plan of the highway to be known as and marked "Preliminary Assumption Plan", and such Preliminary Assumption Plan when registered has the same force and effect as an Assumption Plan registered under subsection (1), but an Assumption Plan of the highway or a Notice of Assumption referring to a plan registered in the proper land registry office shall thereafter be registered under subsection (1). 1973, c. 67, s. 5.

Correction of errors

9. In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may cause to be registered in the proper land registry office a plan or description replacing or amending such original plan or description and signed by an Ontario land surveyor and one of,

(*a*) the Minister;

(*b*) the Deputy Minister;

(*c*) an Assistant Deputy Minister of the Ministry; or

(*d*) the Chief Surveyor of the Ministry,

and a plan registered under this section shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan or description to the extent that such plan or description is replaced or amended thereby. 1976, c. 41, s. 1.

Verification of plans and descriptions

10. Where a plan and description purporting to be signed by any of the persons authorized so to do is registered under this Part, it shall be deemed to have been registered by the direction and authority of the Minister and as indicating that in the opinion of the Minister the highway described or the land described is necessary for the purposes of this Part, and the plan and description shall not be called in question except by the Minister or by a person authorized by the Minister. R.S.O. 1970, c. 201, s. 8.

Land may be acquired or expropriated

11.—(1) The Minister may, in the name of the Crown, acquire by purchase, lease or otherwise or may, without the consent of the owner, expropriate any land he considers necessary for the purposes of this Act or for making compensation in whole or in part to any person for land acquired under this Act. 1973, c. 67, s. 6 (1).

Power to take whole lot when part only required

(2) Where the Minister is of opinion that he can obtain the whole of a lot or parcel of land at a more reasonable price or to greater advantage than by acquiring a part thereof only, he may expropriate the whole of the lot or parcel and also any right of way thereto. R.S.O. 1970, c. 201, s. 9 (3).

Claims for damages or compensation from exercise of power under s. 6 R.S.O. 1980, c. 148

12. The provisions of this Part respecting claims for damages or compensation and the amount thereof resulting from the exercise of any power under section 6 apply only where the exercise of such power does not result in expropriation or injurious affection to which the *Expropriations Act* applies. R.S.O. 1970, c. 201, s. 10.

Notice to be given to owner

13.—(1) Where any of the powers conferred by section 6 have been exercised, the Minister shall, within sixty days thereafter, give notice to the owner,

(*a*) if the owner is known and his residence is known, by serving upon or by mailing by registered letter addressed to him at his last known place of residence a notice describing the land affected and the power exercised and stating that every person having any claim to compensation must file the claim in the office of the Minister within six months after the date of the notice; or

(*b*) if the owner is unknown or his place of residence is unknown, by the publication of a similar notice once a week for at least three weeks in a newspaper having general circulation in the county or district in which the land affected is situate.

Where notice given

(2) Where notice has been given under subsection (1), a claim for compensation shall be made within the time limited by the notice.

Where no notice given

(3) Where no notice has been given under subsection (1), a claim for compensation may be made at any time by giving notice thereof to the Minister, and the provisions of this Part with respect to the fixing, payment and application of compensation apply thereto. R.S.O. 1970, c. 201, s. 11.

Right to compensation

14.—(1) The Minister shall make due compensation to the owner of land for any damage necessarily resulting from the exercise of any of the powers conferred by section 6.

Determination of compensation

R.S.O. 1980, c. 347

(2) Every such claim for compensation not agreed upon by the Minister and the claimant shall be determined by the Board and not otherwise, and the *Ontario Municipal Board Act*, except section 95, applies so far as is practicable to every such claim that is referred to the Board.

Appeal to Divisional Court

(3) The Minister or the claimant may, with leave of the Divisional Court, appeal to that court from any determination or order of the Board as to compensation under this Part.

Time for appeal

(4) Application for leave to appeal shall be made within thirty days after the date of the determination or order of the Board subject to the rules of court as to vacations.

(5) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the court considers just. R.S.O. 1970, c. 201, s. 12. Terms

15. Every person who is claiming compensation or damages under this Part shall, upon demand made therefor by the Minister or any person authorized by him, furnish to the Minister a true statement showing the particulars of his interest in the land concerned and of the claim made by him. R.S.O. 1970, c. 201, s. 13. Minister may require particulars

16.—(1) Interest at the rate of 5 per cent per annum may be allowed on the compensation or damages from the time when the land was used, but no person who has been offered in writing a sum equal to or greater than the compensation or damages shall be allowed interest thereon for any period after the date of the offer. Interest

(2) Where the Board is of the opinion that any delay in determining the compensation or damages is attributable in whole or in part to the person entitled to the compensation or damages or any part of it, the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per annum as appears just. R.S.O. 1970, c. 201, s. 14. Where interest may be withheld

17. The Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any person any sum to which he is entitled under this Part as compensation, damages or costs. R.S.O. 1970, c. 201, s. 15. Payment of compensation, damages and costs

18. The Minister has, within the limits of any municipality in which the King's Highway is situate, all the powers that may be exercised by that municipality in respect of its highways. R.S.O. 1970, c. 201, s. 16. Minister may exercise powers of municipality

19.—(1) The Minister has in respect of the King's Highway all the rights, powers, benefits and advantages conferred by by-law or agreement or otherwise upon the municipality that had jurisdiction and control of the highway before the highway was vested in the Crown, and the Crown may sue thereon in the same manner and to the same extent as the municipality might have done if the highway had not vested in the Crown. Previous rights and agreements

(2) The Minister is entitled to a copy of any such by-law or agreement from the municipality and has the right to inquire into and ascertain full particulars concerning any such by-law or agreement. R.S.O. 1970, c. 201, s. 17. Right of Minister to copies of by-laws, etc.

Intersecting highways

20.—(1) Except as otherwise designated by the Lieutenant Governor in Council, where the King's Highway, other than a proposed highway, intersects a highway that is not the King's Highway, the continuation of the King's Highway to its full width across the highway so intersected is the King's Highway and shall be deemed to be vested in the Crown and under the jurisdiction and control of the Ministry.

Crossing highways

(2) Notwithstanding subsection (1), where a highway is carried over or under the King's Highway by a bridge or other structure the surface of the highway shall be deemed to be under the jurisdiction and control of the authority that has jurisdiction and control over the remainder of the highway and the Crown shall not be liable for maintenance and repair of the surface of the highway. 1973, c. 67, s. 7.

Connecting links, extensions

21.—(1) Where it is deemed by the Minister that a highway,

(*a*) that is under the jurisdiction and control of a city, town or village; or

(*b*) that is in a city, town or village and under the control of the county; or

(*c*) that was under the jurisdiction of the Ministry but has reverted or been transferred to a township and is an essential and direct connection between parts of the King's Highway; or

(*d*) that was a connecting link between parts of the King's Highway or an extension of the King's Highway on the date it came under the jurisdiction and control of a township,

should be constructed as a connecting link between parts of the King's Highway or as an extension of the King's Highway, the Lieutenant Governor in Council may designate such highway as a connecting link or as an extension, as the case may be, to be constructed by the city, town, village, township or county, and the council of the city, town, village, township or county may pass by-laws for issuing and may issue debentures under the *Municipal Act* for an amount sufficient to pay the municipality's share of the cost of the construction of the highway, but, in the case of a city, town, village or township, it is not necessary for the council to obtain the assent of the electors to any such by-laws for the issue of debentures or to observe the formalities in relation thereto prescribed by the *Municipal Act*. R.S.O. 1970, c. 201, s. 19 (1); 1972, c. 1, s. 1.

R.S.O. 1980, c. 302

Work as local improvement
R.S.O. 1980, c. 250

(2) In the case of a city, town, village or township, work required to be constructed under subsection (1) may be undertaken as a local improvement under the *Local Improvement Act*, and in that case the council may by by-law fix the proportion of the cost of the work to be borne by the municipality at large as the council considers proper. R.S.O. 1970, c. 201, s. 19 (2).

Construction and maintenance agreements, towns, villages, townships

(3) The Minister and the council of a town, not being a separated town, or of a village or township may enter into an agreement for the construction and maintenance therein by the municipality or by the Ministry of a highway designated under subsection (1). R.S.O. 1970, c. 201, s. 19 (3); 1972, c. 1, s. 1.

Idem, cities and separated towns

(4) The Minister and the council of a city or of a separated town may enter into an agreement for the construction therein by the municipality or by the Ministry of a highway designated under subsection (1). R.S.O. 1970, c. 201, s. 19 (4); 1972, c. 1, s. 1.

Idem, counties

(5) The Minister and the council of a county may enter into an agreement, in the case of a highway in a town, not being a separated town, or a village, for the construction by the county or by the Ministry of a highway designated under subsection (1), and, in the case of a highway in a city or separated town, for the construction therein by the county or by the Ministry of a highway designated under subsection (1). R.S.O. 1970, c. 201, s. 19 (5); 1972, c. 1, s. 1.

Apportionment of cost of work

(6) An agreement under subsection (3), (4) or (5) may provide that a proportion of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village, township or county, as the case may be, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

(*a*) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village or township having a population of not more than 2,500, a sum equal to the cost of the construction of the highway and of the maintenance of the roadway;

(*b*) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village or township having a population of more than 2,500, a sum equal to 90 per cent of the cost of the construction of the highway and of the maintenance of the roadway; and

(*c*) where the highway is in a city or separated town, a sum equal to 75 per cent of the cost of the construction of the highway.

Idem, additional roadways and widths

(7) An agreement under subsection (3), (4) or (5) may provide for the construction and maintenance or for the construction, as the case may be, of roadways necessary to permit the proper interchange of traffic at intersections of the highway designated under subsection (1) with any other highway, and in that case the agreement may provide that a proportion of the cost of the construction and maintenance or construction, as the case may be, of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village, township or county, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

(*a*) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village or township having a population of not more than 2,500, a sum equal to the cost of the construction and maintenance of the work;

(*b*) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village or township having a population of more than 2,500, a sum equal to 90 per cent of the cost of the construction and maintenance of the work; and

(*c*) where the highway is in a city or separated town, a sum equal to 75 per cent of the cost of the construction of the work.

Determination of cost of work

(8) For the purposes of an agreement entered into under subsection (3) or (4), the owners' share of the cost of local improvements shall not be included in the cost of the work without the consent of the Minister, nor may any other contribution received from any source be so included without the consent of the Minister.

Jurisdiction and control unchanged

(9) A highway does not, by reason of its having been constructed or maintained under this section, become the property of the Crown, but every such highway remains under the jurisdiction and control of the city, town, village, township or county, as the case may be. R.S.O. 1970, c. 201, s. 19 (6-9).

Transportation needs study report

22.—(1) The Minister may enter into an agreement with any municipality, including a district, metropolitan or regional municipality, or with any public utilities commission for the preparation of a report on the whole or any part of the transportation or highway system required to meet the needs of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report.

Transportation experimental project

(2) The Minister may enter into an agreement with any municipality, including a district, metropolitan or regional municipality, or with any public utilities commission to provide all or any part of an experimental or demonstration project related to the transportation or highway system of the municipality and the Minister may direct payment out of moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the project. 1980, c. 8, s. 2.

Agreement for construction of greater width of roadway

23.—(1) The Minister and a municipality in which a part of the King's Highway is situate or an owner of land adjoining a part of the King's Highway may enter into an agreement for the construction of a roadway of a greater width or with different specifications than those for the remainder of the roadway, and the Ministry may construct the roadway accordingly. R.S.O. 1970, c. 201, s. 21 (1); 1972, c. 1, s. 1.

Raising cost of special work

R.S.O. 1980, cc. 250, 302

(2) The additional cost entailed under such an agreement to be borne by a municipality may be raised by a special tax or by the issue of debentures under the *Local Improvement Act* or the *Municipal Act*, and debentures issued under either Act shall be payable within a period not exceeding twenty years from the date of the debentures, but it is not necessary to obtain the assent of the electors to any by-law for the issue of such debentures under the *Municipal Act* or to observe any of the provisions of the *Local Improvement Act* with respect to the undertaking of works as local improvements. R.S.O. 1970, c. 201, s. 21 (2).

Relocation, etc., of approaches to highway

24.—(1) The Minister, with the consent of the authority or person having jurisdiction and control over the road, may relocate, alter or divert any public or private road entering or touching upon or giving access to a highway under the jurisdiction and control of the Minister.

During repairs road deemed to be King's Highway

(2) The cost of the changes made pursuant to subsection (1) shall be deemed to be part of the cost of the construction of the King's Highway and during the period when the changes are being made that portion of the road being

relocated, altered or diverted shall be deemed to be a King's Highway for the purposes of section 30. 1977, c. 53, s. 2.

Consent to closing of highway connecting with King's Highway

(3) A municipality shall not open, close or divert any highway or road allowance entering upon or intersecting the King's Highway without the consent of the Minister to the opening, closing or diversion of the highway or road allowance, and a by-law passed for any of such purposes does not take effect until the consent of the Minister is endorsed thereon and the by-law is registered in the proper land registry office.

Exception

(4) Subsection (3) does not apply where the highway or road allowance is closed for a specified period of time not exceeding seventy-two hours and the municipality has provided an adequate detour.

Consent deemed not regulation R.S.O. 1980, c. 446

(5) A consent or approval pursuant to subsection (3) or any predecessor thereof shall be deemed not to be and never to have been a regulation within the meaning of the *Regulations Act*. 1973, c. 67, s. 8.

Drainage of the King's Highway

25.—(1) The Minister or a person authorized by him may initiate and carry out proceedings under any Act for the purpose of procuring proper drainage for the King's Highway, and the Minister or such authorized person has authority to file notices and declarations as owner with the clerk of the local municipality or municipalities, or may receive notices where any other person is the initiating party, in accordance with the procedure prescribed in the Act, but no drainage works shall be constructed upon the King's Highway under any Act without the consent of the Minister or such authorized person. R.S.O. 1970, c. 201, s. 23 (1).

Drainage engineer for Ministry

(2) The Minister may from time to time designate one or more engineers of the Ministry to be the engineer or engineers authorized to carry out the provisions of any Act for the purpose of procuring proper drainage for the King's Highway or other property under the control of the Ministry, and every engineer so designated has for such purpose all the powers and shall perform all the duties on behalf of the Ministry required of an engineer appointed by a municipality. R.S.O. 1970, c. 201, s. 23 (2); 1972, c. 1, s. 1.

Construction of works

26.—(1) The Minister may construct, extend, alter, maintain and operate such works as he considers necessary or expedient for the purposes of the Ministry, and he and any person including a municipality or local board thereof,

may enter into agreements, with respect to the construction, extension, alteration, maintenance or operation of such works. 1973, c. 67, s. 9.

Agreement for road construction

(2) The Minister may enter into agreements to construct and maintain roads for and on behalf of a Minister of the Crown, an agency of the Crown or Ontario Hydro. 1977, c. 53, s. 3.

Regulations

(3) The Lieutenant Governor in Council may make regulations prohibiting or regulating the use of any rest, service or other area or any class or classes thereof constructed, maintained or operated under subsection (1), but no such regulation shall affect the operation of any agreement entered into by the Crown as represented by the Minister with respect to a service area except to the extent that the other party to the agreement consents thereto.

Offence

(4) Every person who contravenes any provision of a regulation made under subsection (3) is guilty of an offence and on conviction is liable to a fine of not less than $5 and not more than $50.

Agreements for construction, etc., of highway to higher standard

(5) The Minister and any municipality may enter into agreements for the construction, maintenance or operation of any part of the King's Highway located within the municipality to a higher standard than the Minister considers necessary or expedient for the purposes of this Part. R.S.O. 1970, c. 201, s. 24 (2-4).

Joint construction projects

27.—(1) Where the Minister considers it advantageous for the Ministry and any municipality to combine separate work projects, the Minister and the municipality may enter into agreements for the construction of such works on any terms and conditions, including the sharing of costs, that the Minister considers advisable.

Powers of municipalities

(2) Any municipality shall be deemed to have all the powers necessary to enter into and to carry out the terms and conditions of an agreement made under subsection (1). 1973, c. 67, s. 10.

Closing highway to traffic

28.—(1) While a work authorized by this Part is in progress, the Minister or a person authorized by him may close to traffic the King's Highway on which the work is being done for such time as the Minister or such person, as the case may be, considers necessary. R.S.O. 1970, c. 201, s. 25 (1).

Alternative routes during work

(2) While the King's Highway is so closed to traffic, the Ministry shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, or the Minister and a municipality may enter into an agreement for that purpose or the Minister may make a grant to a municipality for that purpose, and any such expenditure or grant shall be apportioned as a part of the cost of the work in progress on the King's Highway by reason of which the alternative route is necessary. R.S.O. 1970, c. 201, s. 25 (2); 1972, c. 1, s. 1.

Barricades

(3) While the King's Highway is so closed to traffic, the Minister or a person authorized by him shall protect it by erecting or causing to be erected at each end of it, and, wherever an alternative route deviates from it, a barricade upon which a red or a flashing amber light visible for a distance of 500 feet shall be exposed and kept burning or operating continuously from sunset until sunrise, and at such points shall put up a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.

No Crown liability

(4) Every person using the King's Highway closed to traffic in accordance with this section does so at his own risk and the Crown is not liable for any damage sustained by a person using the King's Highway so closed to traffic.

Offence

(5) Every person who without lawful authority uses the King's Highway so closed to traffic while it is protected in accordance with subsection (3), or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on conviction is liable to a fine of not more than $50 and is also liable to the Crown for any damage or injury occasioned by such wrongful use, removal or defacement. R.S.O. 1970, c. 201, s. 25 (3-5).

Interpretation

29.—(1) In this section, "municipality" includes county, district, metropolitan or regional municipalities and a commission that is a road authority appointed under an Act of the Legislature.

Closing

(2) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Ministry shall be closed.

Temporary closing

(3) Notwithstanding subsection (2), the Minister may direct that any part of the King's Highway or any part of any other

highway that is under the jurisdiction and control of the Ministry shall be closed for a specified period of time not exceeding seventy-two hours where, in the opinion of the Minister, there is an adequate detour for through traffic.

Transfer to municipality or road authority

(4) The Lieutenant Governor in Council may direct the transfer of any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Ministry to any municipality in which it is situate and,

(*a*) it vests in and is under the jurisdiction and control of the municipality on and after the day named by the Lieutenant Governor in Council;

(*b*) it shall for all purposes be deemed to be part of the road system of the municipality;

(*c*) any agreements made or permits granted by the Minister in relation thereto shall continue in force as though made or granted by the municipality; and

(*d*) all rights, privileges and benefits conferred upon or retained by the Ministry or the Crown in any agreement referred to in clause (*c*) shall enure to the benefit of and be binding upon the municipality.

Application of s. 38

(5) Where a controlled-access highway is transferred to a municipality under this section, the provisions of section 38 shall continue to apply to such highway for a period of not more than six months thereafter or until the municipality designates the highway as a controlled-access road, whichever is the prior date, and every reference to the Minister or the Ministry in section 38 for the purpose of this section shall be deemed to be a reference to the municipality.

Removal of highway from jurisdiction and control of Ministry

(6) Where, in territory without municipal organization, an alternative route has been provided for the King's Highway or any other highway under the jurisdiction and control of the Ministry, or where for any other reason it is considered advisable that the highway or any part thereof should no longer be under the jurisdiction and control of the Ministry, the Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway under the jurisdiction and control of the Ministry, be no longer under the jurisdiction and control of the Ministry and the Crown shall not be liable for any damages caused by default in maintenance of the highway or for any damage sustained by any person using the highway on and after the day named by the Lieutenant Governor in Council.

Revocation of designation as King's Highway

(7) Where a highway is closed for an indeterminate period, transferred to a municipality or removed from the jurisdiction and control of the Ministry under this section, any designation of the highway as the King's Highway is thereby revoked. 1973, c. 67, s. 11.

Planting trees

30.—(1) The Ministry may plant trees upon the King's Highway and the cost thereof shall be part of the cost of its maintenance. R.S.O. 1970, c. 201, s. 27 (1); 1972, c. 1, s. 1.

Cutting, etc.

(2) No person, including a municipality and a local board thereof, shall injure, destroy, cut or prune any tree within the limits of the King's Highway without first obtaining the consent in writing of the Minister or a person authorized by him.

Offence

(3) Every person who contravenes subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than $10 per tree and not more than $100 per tree and is also liable for any damage occasioned by the injuring, destroying, cutting or pruning. R.S.O. 1970, c. 201, s. 27 (2, 3).

Bonus for planting trees

(4) The Ministry may pay an amount not exceeding 75 cents for each elm, maple or other tree of a species approved by the Ministry planted on land adjoining the King's Highway in accordance with the conditions of a permit issued therefor by the Minister. R.S.O. 1970, c. 201, s. 27 (4); 1972, c. 1, s. 1.

Bonus chargeable

(5) The amounts paid under subsection (4) are chargeable to the moneys appropriated therefor by the Legislature and are payable upon a certificate of an engineer of the Ministry giving the name of the person entitled, the number of trees of each species planted and the amount to which the person is entitled and certifying that the trees have been planted for a period of three years and that they are alive, healthy and of good form and were planted in accordance with the conditions of the permit granted therefor by the Minister. R.S.O. 1970, c. 201, s. 27 (5); 1972, c. 1, s. 1.

Agreements re fences

(6) The Minister may agree with the owner of property adjoining the King's Highway with respect to the moving, removal or construction of a wire or other type of fence along the King's Highway and may pay the owner therefor.

Removal of obstructions

(7) Subject to the payment of such compensation as is agreed upon or as is determined in the manner provided

by section 14, the Minister may direct the owner of any tree, shrub, bush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on lands adjacent to the King's Highway to remove it where in his opinion the safety or convenience of the travelling public so requires or where in his opinion it might cause the drifting or accumulation of snow or be injurious to the highway.

Snow fences

(8) The Minister or any person authorized by him may enter upon any land adjacent to the King's Highway without the consent of the owner and may erect and maintain snow fences thereon subject to payment for such damage as is suffered by the owner of the land so entered upon, and the amount thereof, if not agreed upon, shall be determined in the manner provided by section 14.

Offence

(9) Any person who hinders or interferes with the erection of snow fences under subsection (8), or who, without lawful authority, takes down, removes or otherwise interferes with snow fences that have been erected under that subsection, is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $50. R.S.O. 1970, c. 201, s. 27 (6-9).

Interference with King's Highway

31.—(1) Notwithstanding anything in any general or special Act, no person, including a municipality and a local board thereof,

(*a*) shall obstruct or deposit material on or take up or in any way interfere with the King's Highway; or

(*b*) shall construct any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway, other than a controlled-access highway,

except in accordance with the conditions of a permit issued therefor by the Minister.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $1,000. R.S.O. 1970, c. 201, s. 28.

Regulating use

32.—(1) The Minister may make regulations prohibiting or regulating the use of the King's Highway by any class of vehicles or animals and may impose penalties for contravention thereof, but no such regulation has any

force or effect until approved by the Lieutenant Governor in Council after notice to any municipality affected thereby.

Horses, cattle, etc., on highway

(2) Every person who, being the owner or having the care, custody or control of horses, cattle, swine, sheep or goats, suffers or permits them or any of them to run at large within the limits of the King's Highway is guilty of an offence and on conviction is liable to a fine of not more than $5 for every such animal found at large upon the highway, but this section does not create any civil liability on the part of the owner of the animal for damage caused to the property of others as a result of the animal running at large within the limits of the King's Highway. R.S.O. 1970, c. 201, s. 29.

Ministry to maintain and repair

33.—(1) The King's Highway shall be maintained and kept in repair by the Ministry and any municipality in which any part of the King's Highway is situate is relieved from any liability therefor, but this does not apply to any sidewalk or municipal undertaking or work constructed or in course of construction by a municipality or which a municipality may lawfully do or construct upon the highway, and the municipality is liable for want of repair of the sidewalk, municipal undertaking or work, whether the want of repair is the result of nonfeasance or misfeasance, in the same manner and to the same extent as in the case of any other like work constructed by the municipality. R.S.O. 1970, c. 201, s. 30 (1); 1972, c. 1, s. 1.

Liability for damage in case of default

(2) In case of default by the Ministry to keep the King's Highway in repair, the Crown is liable for all damage sustained by any person by reason of the default, and the amount recoverable by a person by reason of the default may be agreed upon with the Minister before or after the commencement of an action for the recovery of damages. R.S.O. 1970, c. 201, s. 30 (2); 1972, c. 1, s. 1.

Insufficiency of fence, etc.

(3) No action shall be brought against the Crown for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier adjacent to or in, along or upon the King's Highway or caused by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or upon the King's Highway that is not on the roadway.

Notice claim

(4) No action shall be brought for the recovery of the damages mentioned in subsection (2) unless notice in writing

of the claim and of the injury complained of has been served upon or sent by registered letter to the Minister within ten days after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not thereby prejudiced in its defence.

Limitation of action

(5) No action shall be brought against the Crown for the recovery of damages occasioned by the default mentioned in subsection (2), whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time the damage was sustained.

Judgment, how payable

(6) All damages and costs recovered under this section and any amount payable as the result of an agreement in settlement of a claim for damages and costs that has been approved of in writing by counsel is payable in the same manner as in the case of a judgment recovered against the Crown in any other action. R.S.O. 1970, c. 201, s. 30 (3-6).

Style of action

(7) In an action against the Crown under this section, the defendant shall be described as "Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Transportation and Communications for the Province of Ontario", and it is not necessary to proceed by petition of right or to procure the fiat of the Lieutenant Governor or the consent of the Attorney General before commencing the action, but every such action may be instituted and carried on and judgment may be given thereon in the same manner as in an action brought by a subject of Her Majesty against another subject. R.S.O. 1970, c. 201, s. 30 (7); 1972, c. 1, ss. 9 (7), 100 (2).

Counter-claims and third party proceedings

(8) Notwithstanding any general or special Act, in an action against the Crown under this section, the defendant may set up by way of counterclaim any right or claim, whether the right or claim sounds in damages or not, and may claim contribution or indemnity from or any other relief over against any person not a party to the action, and every such counterclaim and claim may be instituted and carried on and judgment may be given as if such counterclaim or claim was made by a subject of Her Majesty against another subject. R.S.O. 1970, c. 201, s. 30 (8).

Action to be tried without jury

(9) An action against the Crown under this section shall be tried by a judge without the intervention of a jury, and the

trial shall take place in the county in which the default occurred unless otherwise ordered upon an application by any party. 1977, c. 53, s. 4.

Liability not to exceed that of municipality

(10) The liability imposed by this section does not extend to a case in which a municipality having jurisdiction and control over the highway would not have been liable for the damage sustained. R.S.O. 1970, c. 201, s. 30 (10).

Interpretation

34.—(1) In this section, "centre point of an intersection" is the point where the centre line of the through part of the King's Highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the King's Highway. R.S.O. 1970, c. 201, s. 31 (1).

King's Highway control

(2) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,

(*a*) place, erect or alter any building, fence, gasoline pump or other structure or any road upon or within 45 metres of any limit of the King's Highway or upon or within 180 metres of the centre point of an intersection;

(*b*) place any tree, shrub or hedge within 45 metres of any limit of the King's Highway or within 180 metres of the centre point of an intersection;

(*c*) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than sixty centimetres by thirty centimetres in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within 400 metres of any limit of the King's Highway; or

(*d*) use any land, any part of which lies within 800 metres of any limit of the King's Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers. R.S.O. 1970, c. 201, s. 31 (2); 1976, c. 41, s. 2; 1979, c. 60, s. 1.

No authorization by others

(3) No person shall authorize or permit any act prohibited by subsection (2).

Application

(4) The Minister may order that subsection (2) or such clauses thereof as he specifies do not apply within the limits of any city, town or village or such parts thereof as he specifies.

Notice to remove, etc.

(5) The Minister may give notice to the owner of any land requiring him,

(*a*) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub or hedge placed, erected or altered; or

(*b*) to remove therefrom or alter thereon any sign, notice or advertising device displayed,

in contravention of subsection (2).

Service of notice

(6) Every notice given under subsection (5) shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following its mailing. R.S.O. 1970, c. 201, s. 31 (3-6).

Failure to comply with notice

(7) Where the person to whom notice is given under subsection (5) fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Ministry to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, sign, notice or advertising device as required by the notice. R.S.O. 1970, c. 201, s. 31 (7); 1972, c. 1, s. 1.

Offence

(8) Every person who contravenes any of the provisions of subsection (2) or (3) or who fails to comply with a notice given under subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $500 for a first offence and not less than $200 and not more than $1,000 for any subsequent offence. 1980, c. 8, s. 3.

Compensation

(9) Where a notice given under subsection (5) has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other structure or a road, tree, shrub, hedge, sign, notice or advertising device was placed, erected or altered, as the case may be,

(*a*) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or

(*b*) before the day on which the King's Highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or

(*c*) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

Procedure

(10) Every claim for such compensation shall be determined in accordance with subsections 14 (2) to (5).

Permits

(11) The Minister may issue permits under this section in such form and upon such terms and conditions as he considers proper, and may in his discretion cancel any such permit at any time.

Fee

(12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. R.S.O. 1970, c. 201, s. 31 (9-12).

Interpretation

35.—(1) In this section, "intersection" means the part of the King's Highway contained within the prolongation or connection of the boundary lines of a private road that crosses the King's Highway.

Private road, King's Highway intersections in unorganized territory

R.S.O. 1980, c. 198

(2) The Lieutenant Governor in Council may make regulations designating provisions of the *Highway Traffic Act* or the regulations thereunder that shall not apply in intersections in territory without municipal organization. R.S.O. 1970, c. 201, s. 32.

PART II

CONTROLLED-ACCESS HIGHWAYS

Controlled-access highway designation

36.—(1) The Lieutenant Governor in Council may designate any,

(*a*) highway; or

(*b*) proposed highway,

as a controlled-access highway and every highway so designated shall be deemed to be part of the King's Highway and the provisions of this Act and the regulations that apply to the King's Highway apply with necessary modifications to such controlled-access highway.

Previous controlled-access designation

(2) Any part of the King's Highway heretofore designated as a controlled-access highway under this Act or a predecessor thereof shall be deemed to have been designated in accordance with this section. 1973, c. 67, s. 12.

Order in council to be registered

(3) The order in council designating a highway or proposed highway as a controlled-access highway shall be registered in the proper land registry office and any such order in council heretofore registered shall be deemed to have been required to be so registered. 1976, c. 41, s. 3.

Designation not regulation within R.S.O. 1980, c. 446

(4) A designation under this section is not a regulation within the meaning of the *Regulations Act*. 1980, c. 8, s. 4.

Interpretation

37.—(1) In this section, "road" includes an unopened road allowance. R.S.O. 1970, c. 201, s. 34 (1).

Closing of intersecting municipal roads

(2) Subject to the approval of the Board, the Minister may close any road, other than a highway that is under the jurisdiction and control of the Ministry, that intersects or runs into a controlled-access highway. R.S.O. 1970, c. 201, s. 34 (2); 1972, c. 1, s. 1.

Application for approval

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons, including municipalities and local boards thereof, as the Board determines, and may further direct that particulars of objections to the closing shall be filed with the Board and the Minister within such time as the Board directs. 1973, c. 67, s. 13, *part*.

Powers of Board

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its approval upon such terms and conditions as it considers proper. R.S.O. 1970, c. 201, s. 34 (4).

Appeal

(5) The Minister or a person, including a municipality or local board thereof, that has filed particulars of an objection may, with leave of the Divisional Court, appeal to that court from any order made under subsection (4), and subsections 14 (4) and (5) apply with necessary modifications thereto. 1973, c. 67, s. 13, *part*.

Effect of physical closing

(6) Any road heretofore or hereafter closed under this section by the Minister in accordance with the approval

of the Board by the placing or erecting of a fence, barricade or other work on the limit of a controlled-access highway shall be deemed to have been thereby legally closed. R.S.O. 1970, c. 201, s. 34 (6).

Interpretation

38.—(1) In this section, "centre point of an intersection" is the point where the centre line of the through part or parts of a controlled-access highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the controlled-access highway. R.S.O. 1970, c. 201, s. 35 (1).

Controlled-access highways, control

(2) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,

(*a*) place, erect or alter any building, fence, gasoline pump or other structure or any road upon or within 45 metres of any limit of a controlled-access highway or upon or within 395 metres of the centre point of an intersection;

(*b*) place any tree, shrub or hedge within 45 metres of any limit of a controlled-access highway or within 395 metres of the centre point of an intersection;

(*c*) sell, offer or expose for sale any vegetables, fruit or other produce or any goods or merchandise upon or within 45 metres of any limit of a controlled-access highway or within 395 metres of the centre point of an intersection;

(*d*) place, erect or alter any power line, pole line or other transmission line within 400 metres of any limit of a controlled-access highway;

(*e*) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than sixty centimetres by thirty centimetres in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within 400 metres of any limit of a controlled-access highway;

(*f*) use any land, any part of which lies within 800 metres of any limit of a controlled-access highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers; or

(*g*) construct or use any private road, entranceway, gate or other structure or facility as a means of access to a controlled-access highway. R.S.O. 1970, c. 201, s. 35 (2); 1976, c. 41, s. 4; 1979, c. 60, s. 2.

No authorization by others

(3) No person shall authorize or permit any act prohibited by subsection (2).

Application

(4) The Minister may order that subsection (2) or such clauses thereof as he specifies do not apply within the limits of any city, town or village or such parts thereof as he specifies.

Notice to remove, etc.

(5) The Minister may give notice to the owner of any land requiring him,

(*a*) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line placed, erected or altered; or

(*b*) to remove therefrom or alter thereon any sign, notice or advertising device displayed; or

(*c*) to close up any private road, entranceway, gate or other structure or facility constructed or maintained as a means of access to a controlled-access highway,

in contravention of subsection (2).

Service of notice

(6) Every notice given under subsection (5) shall be in writing and shall be served personally or by registered letter, and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof. R.S.O. 1970, c. 201, s. 35 (3-6).

Failure to comply with notice

(7) Where the person to whom notice is given under subsection (5) fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Ministry to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, or to close up the private road, entranceway, gate or other structure or facility as required by the notice. R.S.O. 1970, c. 201, s. 35 (7); 1972, c. 1, s. 1.

Offence

(8) Every person who contravenes any of the provisions of subsection (2) or (3) or who fails to comply with a notice given under subsection (5) is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $500 for a first offence and to a fine of not less than $200 and not more than $1,000 for any subsequent offence. 1980, c. 8, s. 5.

Compensation

(9) Where a notice given under subsection (5) has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, private road, entranceway, gate or other structure or facility was placed, erected, altered, constructed or used, as the case may be,

(*a*) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or

(*b*) before the day on which the controlled-access highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or

(*c*) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

Procedure

(10) Every claim for such compensation shall be determined in accordance with subsections 14 (2) to (5).

Permits

(11) The Minister may issue permits under this section in such form and upon such terms and conditions as he considers proper and may in his discretion cancel any such permit at any time.

Fee

(12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. R.S.O. 1970, c. 201, s. 35 (9-12).

Service roads

39. The Minister and any municipality may enter into agreements for the establishment, construction and apportionment of the cost of roads within the municipality for the purpose of providing means of access to a controlled-access highway at a point where access is permitted. R.S.O. 1970, c. 201, s. 36.

PART III

SECONDARY HIGHWAYS

Secondary highways, designation

40. The Lieutenant Governor in Council may designate any highway as a secondary highway and thereupon Part I and all the other provisions of this Act and the regulations that apply to the King's Highway apply with necessary modifications to such secondary highway. R.S.O. 1970, c. 201, s. 37.

PART IV

TERTIARY ROADS

Tertiary roads, designation

41.—(1) The Lieutenant Governor in Council may designate an existing road that is in whole or in part in territory without municipal organization as a tertiary road, and thereupon the provisions of this Act and the regulations that apply to the King's Highway, except sections 33 and 34, apply with necessary modifications to such tertiary road. R.S.O. 1970, c. 201, s. 38 (1).

maintenance

(2) Subject to subsections (4) and (5), a tertiary road shall be maintained by the Ministry, but such maintenance does not include the clearing or removal of snow therefrom or the application of chemicals or abrasives to the icy surfaces thereof. R.S.O. 1970, c. 201, s. 38 (2); 1972, c. 1, s. 1.

liability for damages

(3) No action shall be brought against the Crown for damages caused by the default of the Ministry in maintaining a tertiary road, and the Crown is not liable for any damage sustained by any person using a tertiary road. R.S.O. 1970, c. 201, s. 38 (3); 1972, c. 1, s. 1.

snow removal

(4) The Minister may enter into an agreement with any person for the removal of snow from a tertiary road or the application of chemicals or abrasives to the ice surfaces thereof, and the agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 201, s. 38 (4).

maintenance contributions

(5) Where the Minister considers it desirable that persons who own land in territory without municipal organization in which a tertiary road is situate should establish a local roads area and maintain it under the *Local Roads Boards Act* or elect road commissioners and maintain it under the *Statute Labour Act* or become incorporated under the *Municipal Act* or otherwise contribute to its maintenance, it shall not be maintained by the Ministry unless the interested persons enter into an agreement with the Minister for such maintenance, and the agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 201, s. 38 (5); 1972, c. 1, s. 1.

R.S.O. 1980, cc. 251, 482, 302

PART V

RESOURCE ROADS

Resource roads, designation

42.—(1) The Lieutenant Governor in Council may designate a tertiary road as a resource road.

Load limits, etc., do not apply

R.S.O. 1980, c. 198

(2) Sections 62, 91, 92, 93, 94 and 97 of the *Highway Traffic Act* do not apply to a resource road or to vehicles operated upon a resource road, as the case may be. R.S.O. 1970, c. 201, s. 39.

PART VI

INDUSTRIAL ROADS

Industrial roads, designation

43.—(1) The Minister may designate as an industrial road a private road that he considers necessary for the development or operation of the lumbering, pulp or mining industry but which in his opinion should also be used by the public for road purposes other than those of the industry.

Maintenance

(2) The Minister and the owner of an industrial road may enter into an agreement for the maintenance of the industrial road by the owner, and as long as the owner permits the public to use the industrial road the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost of maintenance as he considers requisite.

Jurisdiction and control

(3) Notwithstanding any other Act, an industrial road remains a private road under the jurisdiction and control of the owner, but subject to the use of the public as described in subsections (1) and (2). R.S.O. 1970, c. 201, s. 40.

PART VII

COUNTY ROADS

Establishment of system

44.—(1) A county may by by-law adopt a plan of county road construction and maintenance and establish a county road system by designating the roads in any municipality in the county that are to form the system and may include in the system such boundary-line roads between the county and a region, between the county and any other county or between the county and a city or separated town as are agreed upon by the municipalities interested. R.S.O. 1970, c. 201, s. 41 (1); 1977, c. 53, s. 5.

General rate

(2) The by-law shall provide for the levying of a general annual rate upon all the municipalities in the county not separated therefrom for municipal purposes unless the Minister is of opinion that on account of the remoteness of a

municipality from the roads in the county road system it is inequitable that the rate should be levied in such municipality, in which case the by-law shall exempt such municipality accordingly, but the representative or representatives in the county council of a municipality so exempt shall not vote upon a by-law passed under this Part, and for the purposes of section 48 the equalized assessment of a municipality so exempt shall not be included in ascertaining the total equalized assessment of the county.

Application of proceeds of rate

(3) All moneys raised under the by-law shall be applied in the construction and maintenance of roads in the county road system and to any expenditure properly chargeable to the county road system under this Part.

Status of land acquired for widening county road

(4) Where a county acquires land for the purpose of widening a county road, the land so acquired, to the extent of the designated widening, forms part of the road and is included in the county road system, and subsection (7) does not apply thereto.

Amendment

(5) A county may, by by-law, amend a by-law passed under this section in any manner, including the addition of roads to, or the removal of roads from, the county road system.

Consolidating by-law

(6) A county may by by-law consolidate the by-law establishing its county road system and all by-laws amending such by-law, and may from time to time by by-law consolidate any such consolidating by-law and all by-laws amending such consolidating by-law.

Approval

(7) Every by-law passed under this section shall be submitted to the Minister for approval by the Lieutenant Governor in Council and the Lieutenant Governor in Council may approve the by-law in whole or in part and, where the by-law is approved in part only, it shall be in force and take effect only so far as approved, but it is not necessary for the county to pass any further by-law amending the original by-law or repealing any part thereof that has not been approved, and every such by-law as so approved is in force and has effect on and after the day on which the approval is given.

Vesting of roads in county

(8) Every road that forms part of a county road system vests in the county and is under the jurisdiction and control of the county on and after the day on which the by-law designating the road is approved by the Lieutenant Governor in Council.

Revesting of roads in local municipality

(9) Every road that is removed from a county road system vests in the local municipality in which it is situate and is under the jurisdiction and control of that municipality on and after the day on which the by-law removing the road is approved by the Lieutenant Governor in Council.

Revocation of approval

(10) Where the Minister is of opinion that a road that forms part of a county road system is not of sufficient importance to be constructed and maintained as part of the system, the Lieutenant Governor in Council may revoke the approval of the designation of the road as part of the system, and the road thereupon vests in the local municipality in which it is situate. R.S.O. 1970, c. 201, s. 41 (2-10).

County road committee

45.—(1) Where a county road system is established under this Part, the county council shall appoint by by-law three or five persons who are residents of the county, but who need not be members of the council, who shall constitute a committee to direct the work to be done on the county road system.

Term of office

(2) Where the committee consists of three members, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of three years, and where the committee consists of five members, one member shall be appointed and hold office for a term of five years, one member shall be appointed and hold office for a term of four years, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of five years.

Reappointment

(3) A member of the committee is eligible for reappointment upon the expiry of his term of office.

Removal from office

(4) A member of the committee may be removed by a vote of two-thirds of the members of the county council present and voting thereon at a regular meeting of the council.

Vacancies

(5) Where a member of the committee is so removed or dies or resigns his office, the county council may appoint some other person to fill the vacancy for the remainder of the term for which the person so removed, dying or resigning was appointed.

(6) The warden of the county for the time being is *ex officio* a member of the committee and may sit and vote thereon. Warden *ex officio* member

(7) Where a county road system is established under this Part in a county in which a suburban roads commission has been appointed, the county may by by-law provide that the members from time to time of the suburban roads commission constitute the committee to direct the work to be done on the county road system and in such case this section does not apply. R.S.O. 1970, c. 201, s. 42. Suburban road commissioners as county road committee

46.—(1) Where a county road system is established under this Part, the county shall by by-law appoint a county road superintendent who shall be a professional engineer as defined in the *Professional Engineers Act*. R.S.O. 1970, c. 201, s. 43 (1); 1979, c. 60, s. 3. County road superintendent R.S.O. 1980, c. 394

(2) The county road superintendent shall, under the direction of the county road committee, administer and manage the county road system. Duties

(3) Where a vacancy occurs in the office of county road superintendent, the county shall appoint another qualified person to the office. R.S.O. 1970, c. 201, s. 43 (2, 3). Vacancy

(4) A copy of every by-law appointing a county road superintendent shall be transmitted to the Minister within thirty days of the passing thereof. 1971, c. 61, s. 4. Copy of by-law to be sent to Minister

(5) Notwithstanding the *Municipal Act*, no member of the county council and no member of the council of a local municipality in the county shall be appointed or act as county road superintendent or be employed by the county road superintendent in any capacity, and any such member who is appointed or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention. R.S.O. 1970, c. 201, s. 43 (5). Members of councils not to be appointed R.S.O. 1980, c. 302

47. The disbursement of all moneys pertaining to the county road system shall be made by the county treasurer only on the certificate of the county road superintendent approved by the county road committee as certified under the hand of the chairman thereof. R.S.O. 1970, c. 201, s. 44. Payment, how to be made

48.—(1) A county may, without the assent of the electors, pass by-laws to raise by debentures payable in not more than twenty years in the manner provided by the *Municipal Act* Debentures

such sums as may be necessary to meet the actual expenditure for the construction of roads under this Part. R.S.O. 1970, c. 201, s. 45 (1); 1976, c. 41, s. 5 (1).

Temporary advances

(2) A county may agree with a chartered bank or loan or trust corporation or with any person for temporary advances to meet the cost of construction of roads under this Part, but the total of such temporary advances shall not exceed in any one year the amount to be provided by the county together with the proportion of aid to be received from the Province, and the amount receivable from cities and towns as contributions on account of suburban roads under Part VIII, and the county may pass by-laws to raise by debentures in the same manner as provided in subsection (1) such sums as may be necessary to repay such temporary advances. R.S.O. 1970, c. 201, s. 45 (3).

Allocation of moneys by Minister

49.—(1) The Minister shall annually advise every county that has established a county road system and adopted a plan of road construction and maintenance of the moneys he has allocated to the county for road improvements for that year and the county shall file with the Minister not later than the 31st day of March a detailed estimate showing how such allocation is proposed to be spent.

Supplementary allocation

(2) A county may submit to the Minister in the year in which the expenditure is to be made a request for a supplementary allocation of moneys for road improvements together with a detailed estimate showing how such allocation is proposed to be spent and the Minister may make such supplementary allocation as he considers appropriate.

Power to spend moneys not limited

(3) This section does not limit the power of a county to spend moneys raised by it under the provisions of a by-law passed under section 44. 1971, c. 61, s. 5.

Annual statement to Minister

50.—(1) Where a plan of road construction and maintenance under this Part is being carried out, the county shall annually, and may with the consent of the Minister at any time during the progress of the work, submit to the Minister,

(*a*) a detailed statement of receipts and expenditures in the form prescribed by the Minister;

(*b*) a declaration of the county road superintendent that the statement of receipts and expenditures is

correct and that the work has been done in accordance with the requirements of the Minister;

(*c*) a declaration of the county treasurer that the statement of receipts and expenditures is correct; and

(*d*) a request, authorized by resolution of the council or in the case of an interim statement by resolution of the county road committee, for the payment of moneys allocated under section 49. R.S.O. 1970, c. 201, s. 47 (1); 1971, c. 61, s. 6 (1).

Payment to county

(2) Upon receipt of the statement, declarations and request, the Minister may direct payment to the county treasurer out of the moneys allocated under section 49 of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement, and in all cases of doubt or dispute the decision of the Minister is final. 1973, c. 67, s. 14 (1).

Contribution to be deducted

(3) Where a contribution has been made from any source whatsoever towards an expenditure to which this section applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. R.S.O. 1970, c. 201, s. 47 (3).

Advance payments

(4) Notwithstanding subsection (1) but subject to section 49, the Minister may, in his discretion, direct payment to the county treasurer,

(*a*) on or after the 1st day of April in any year, of a sum not exceeding 30 per cent; and

(*b*) on or after the 1st day of July in any year, of a further sum which, together with the sum paid under clause (*a*), does not exceed 60 per cent,

of the moneys allocated to the county under subsection 49 (1). 1971, c. 61, s. 6 (3), *part*.

Limitation on payments

(5) The total of all payments made to a county under this section in respect of expenditures for road improve-

ments made in any year shall not exceed the amount of money allocated to such county for that year under section 49. 1974, c. 100, s. 1.

Payment for road improvement

(6) Notwithstanding subsection (2), where a plan of construction and maintenance of a county road system has been submitted to and approved by the Minister, the Minister may, upon consideration of the estimated money needs required to implement the plan and the financial capability of the county, direct payment to the county treasurer out of the moneys allocated under section 49 of such amount as he considers requisite but not exceeding 80 per cent of the amount of the expenditure that is properly chargeable to road improvement, and in all cases of doubt or dispute the decision of the Minister is final. 1973, c. 67, s. 14 (2).

Roads to be county roads

51. The roads forming part of a county road system shall be maintained and kept in repair by the county, and in all cases the Minister shall determine the amount of the expenditure for construction or maintenance or for the purchase or maintenance of road machinery, plant and equipment that is properly chargeable to road improvement under this Act, and his decision is final. R.S.O. 1970, c. 201, s. 48.

County road system, construction and maintenance

52. Every road constructed or maintained as part of a county road system shall be constructed and maintained in accordance with the requirements of the Minister. R.S.O. 1970, c. 201, s. 49.

County expenditure may include county bridges

R.S.O. 1980, c. 302

53.—(1) Where under the *Municipal Act* a county has jurisdiction over a bridge that is more than six metres in span and the bridge is not in the county road system, the expenditure involved in constructing and maintaining the bridge under the supervision of the county road superintendent in accordance with plans approved by an officer of the Ministry designated by the Minister shall be deemed to form part of the expenditure in carrying out the plan of county road construction and maintenance, and debentures issued by a county after the 8th day of April, 1926, for the construction of any such bridge are legal, valid and binding upon the county and the ratepayers thereof notwithstanding that the by-law authorizing the issue thereof has not been submitted to and did not receive the assent of the ratepayers in accordance with the *Municipal Act*. R.S.O. 1970, c. 201, s. 51 (1); 1972, c. 1, s. 1; 1979, c. 60, s. 4 (1).

Aid to county bridges

(2) The Minister may direct the payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent of the cost of constructing and maintaining any such bridge more than six metres in span in accordance with plans approved by an officer of the Ministry designated by the Minister. R.S.O. 1970, c. 201, s. 51 (2); 1972, c. 1, s. 1; 1979, c. 60, s. 4 (2).

Transfer of small bridges

(3) A county may by by-law provide that jurisdiction over every bridge of six metres or less in span that is not included in the county road system shall be transferred to the local municipality or municipalities in which it is situate, and thereupon all the rights, liabilities and obligations of the county with respect to such bridge are transferred to and vested in and imposed upon such local municipality or municipalities. R.S.O. 1970, c. 201, s. 51 (3); 1979, c. 60, s. 4 (3).

Diverting road to avoid construction of bridge

(4) A county, with the approval of the Lieutenant Governor in Council, may by by-law provide for the closing of any bridge over which the county has jurisdiction under the *Municipal Act* or the substitution therefor of any other structure and for that purpose may exercise as to such bridge or other structure and the approaches thereto all the powers of a county as to roads and bridges in a county road system. R.S.O. 1970, c. 201, s. 51 (4).

R.S.O. 1980, c. 302

Intersection of other roads by county road

54. Where a county road intersects a road that is not a county road, the continuation of the county road to its full width across the road so intersected is a part of the county road system, except in the case of an intersection by a county road of the King's Highway, in which case section 20 applies. R.S.O. 1970, c. 201, s. 52.

Sidewalks excepted

55. A county is not liable for the construction or maintenance of sidewalks on any road in its county road system. R.S.O. 1970, c. 201, s. 53.

Contribution of cities, etc., to improvement of county roads

56. Where a county road leading or adjacent to a city or separated town is or is to be improved or requires or will require the expenditure of a greater amount for maintenance to meet in any such case the requirements of increased, heavy or other extraordinary traffic to or from the city or separated town beyond the requirements which, but for the existence of the city or separated town, would be deemed those of a standard road for the locality, the city or separated town by by-law passed with the assent of at least two-thirds of the members of the council thereof may agree with the county to contribute such additional cost, or a proper proportion of the cost, or that

R.S.O. 1980, c. 302

the amount of the contribution of the city or separated town shall be determined by arbitration under the *Municipal Act*, and may, without the assent of the electors, provide by by-law for the issue of debentures payable in not more than twenty years from the date of the issue thereof to raise the amount agreed upon or awarded, or may agree with the county for the payment of such amounts in annual instalments to be raised by an annual special rate upon the rateable property in the city or separated town. R.S.O. 1970, c. 201, s. 54.

Agreement between local municipality and county for extra work

57.—(1) A local municipality that is not separated from the county and the county or the suburban roads commission may enter into an agreement in writing providing for the construction, widening or maintenance of the whole or any part of any county or suburban road in the local municipality, or for the construction or maintenance of special works along or across such road. R.S.O. 1970, c. 201, s. 55 (1).

Either party may do work

(2) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work. R.S.O. 1970, c. 201, s. 55 (2); 1974, c. 100, s. 2 (1).

Acquisition of land by local municipality

(3) Where the agreement provides that the land required for the widening of the road is to be acquired by the local municipality, the local municipality, notwithstanding section 256 of the *Municipal Act*, may pass by-laws for widening the road and acquiring by purchase or otherwise or expropriating such land, and the provisions of the *Municipal Act* as to the acquiring, occupying and taking of land for municipal purposes apply to the acquiring, occupying or taking of land under any such by-law.

Transfer to county

(4) The local municipality shall convey the land so acquired to the county, and thereupon the land becomes a part of the road and is included in the county road system and, where the road has been designated and approved as a suburban road under Part VIII, the land becomes part of the suburban road.

Apportionment of cost of construction

(5) The agreement shall provide the proportion or proportions in which the cost of the work or parts thereof is or are to be borne by the respective parties, but need not require that the cost of all parts be shared or that the cost sharing of various parts of the work be in the same proportion, provided that the local municipality shall be responsible for the entire cost of,

(*a*) installing sanitary sewers except to the extent that they replace existing facilities;

(*b*) maintaining sanitary sewers;

(*c*) extra capacity in storm sewers required for drainage from land other than land within the right-of-way of the road or the road as widened and which was not accommodated on the road prior to the agreement; and

(*d*) maintaining sidewalks. R.S.O. 1970, c. 201, s. 55 (3-5).

Debentures for local municipality's share

(6) The local municipality may pass by-laws to raise by debentures such sum as may be necessary to meet its share of the cost under an agreement entered into under this section, and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by the *Municipal Act*, or such share may be assessed under the *Local Improvement Act* according to the report of an engineer. R.S.O. 1970, c. 201, s. 55 (7).

R.S.O. 1980, cc. 302, 250

Subsidy to local municipality

(7) Where there is an agreement under this section, there may be included in the statement of expenditures on roads under the jurisdiction of the local municipality, submitted to the Minister under this Act for the purpose of determining the grant payable to the local municipality out of moneys appropriated therefor by the Legislature, those costs incurred by the local municipality under the agreement that, if incurred by the local municipality in respect of roads under its jurisdiction and control, could be included in such statement. R.S.O. 1970, c. 201, s. 55 (8); 1974, c. 100, s. 2 (3).

Remedy over

(8) Where the agreement provides that the pavement or a part thereof is to be maintained and kept in repair by the local municipality and the local municipality makes default in so doing and the county or the suburban roads commission becomes liable under section 284 of the *Municipal Act* for damage suffered by or occasioned to any person in consequence of such default, the county or the suburban roads commission is entitled to the remedy over against the local municipality provided for by section 290 of the *Municipal Act*. R.S.O. 1970, c. 201, s. 55 (9).

Agreement between county and urban municipality re county road extensions, etc.

58.—(1) Where a road in an urban municipality not separated from the county is not a part of the county road system but is an extension of or connects roads in the county road system, the county shall enter into an agreement in writing with the urban municipality for the maintenance of such road, and, if it is in the public interest that such road be constructed, for the construction thereof. R.S.O. 1970, c. 201, s. 56 (1).

Either party may do work

(2) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work. R.S.O. 1970, c. 201, s. 56 (5).

How construction cost to be borne

(3) In the case of the construction of a pavement seven metres or less in width, the agreement shall provide that the county is to pay the total cost of such construction. R.S.O. 1970, c. 201, s. 56 (6); 1979, c. 60, s. 5 (1).

Idem, in case of wider pavement

(4) In the case of the construction of a pavement more than seven metres in width, the agreement shall provide that the county is to pay that part of the total cost of such construction that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement seven metres in width bears to the total area of such pavement or such approximation to that proportion as is agreed upon. R.S.O. 1970, c. 201, s. 56 (7); 1979, c. 60, s. 5 (2).

Idem, in case of widening existing pavement

(5) Where there is an existing pavement seven metres or less in width and the urban municipality desires to widen it, the agreement shall provide that the county is to pay that part of the total cost of constructing the additional width of pavement that bears the same proportion to such total cost as the area of that part of such additional width which together with the existing pavement would provide a total paved width of seven metres bears to the total area of such additional width of pavement or such approximation to that proportion as is agreed upon. R.S.O. 1970, c. 201, s. 56 (8); 1979, c. 60, s. 5 (3).

Total cost, what to include

(6) The total cost mentioned in subsections (3), (4) and (5) includes the cost of any necessary grading, shouldering, under-drainage or base construction, but does not include the cost of the construction of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the urban municipality. R.S.O. 1970, c. 201, s. 56 (9).

How maintenance cost to be borne

(7) In the case of the maintenance of a pavement or roadway seven metres or less in width, the agreement shall provide that the county is to pay the total cost of such maintenance. R.S.O. 1970, c. 201, s. 56 (10); 1979, c. 60, s. 5 (4).

Idem, in case of wider roadway

(8) In the case of the maintenance of a pavement or roadway more than seven metres in width, the agreement shall provide that the county is to pay that part of the total cost of such maintenance that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement or roadway seven metres in width bears to the total area of such pavement or roadway or such approximation to that proportion as is agreed upon. R.S.O. 1970, c. 201, s. 56 (11); 1979, c. 60, s. 5 (5).

Total cost, what to include

(9) The total cost mentioned in subsections (7) and (8) includes the cost of the removal of snow and the application of chemicals and abrasives and the removal thereof, but does not include the cost of the maintenance of curbs, gutters, catch basins, sanitary sewers or drains or any other special work, all of which cost shall be borne by the urban municipality.

In case of street railway

(10) Where a part of the pavement or roadway is occupied by the track allowance of a street railway, then for the purposes of an agreement under this section such track allowance shall be deemed not to form part of the pavement or roadway, and, in determining the cost of construction or maintenance that is to be borne by the respective parties, the cost of constructing or maintaining such track allowance, including the pavement thereof, shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area of the pavement or roadway.

Subsidy to county

(11) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway that is borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may, for the purpose of determining the grant payable to the county out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the county under this Part.

Subsidy to urban municipality

(12) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway, including the construction and maintenance of curbs, gutters, catch basins and any other special work properly chargeable to road improvement that is borne by the urban munici-

pality under the agreement, may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X, but the cost of constructing or maintaining any sanitary sewer or drain shall not be included in such statement.

Construction or maintenance of culvert or bridge, how cost to be borne

(13) In the case of the construction or maintenance of a culvert or bridge on, over or across which the roadway passes and which is under the jurisdiction and control of the urban municipality, the agreement shall provide that the cost of such construction or maintenance, exclusive of any part thereof that is incurred to provide for sidewalks or for the track allowance of a street railway, is to be borne 50 per cent by the county and 50 per cent by the urban municipality.

Subsidy to county

(14) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent thereof.

Subsidy to urban municipality

(15) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the urban municipality may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X.

Jurisdiction

(16) A road that is constructed or maintained under this section remains under the jurisdiction and control of the urban municipality and it may pass by-laws to raise by debentures such sums as may be necessary to meet its share of the cost of construction and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by the *Municipal Act*, or such share may be assessed under the *Local Improvement Act* according to the report of an engineer. R.S.O. 1970, c. 201, s. 56 (12-19).

R.S.O. 1980, cc. 302, 250

County to make contribution towards other roads in urban municipality

59.—(1) In addition to the amount that the county may expend in any year on county roads in an urban municipality not separated from the county either directly or pursuant to an agreement under section 57 and on county road exten-

sions or connecting links in such urban municipality pursuant to an agreement under section 58, the county shall in the same year make a contribution towards the construction and maintenance of other roads in such urban municipality.

Form of contribution

(2) Such contribution may be in the form of work carried out by the county at the request of the urban municipality that is properly chargeable to road improvement under Part X, or in the form of a cash payment towards work carried out by the urban municipality under Part X, or a combination of such forms.

Minimum and maximum contribution

(3) Such contribution shall not be less in total value than 25 per cent or more in total value than 50 per cent of the amount levied on the urban municipality for county road purposes in the same year under the by-law mentioned in section 44, exclusive of any part thereof levied for the purpose of paying off the urban municipality's share of any debenture or other debt of the county, unless the value of the work properly chargeable to road improvement under Part X and actually performed on such other roads in the same year is less than 25 per cent of the amount so levied, and in no case shall such contribution exceed the value of such work so actually performed.

How to be paid

(4) Where in any year such contribution or a part thereof is to take the form of a cash payment, the urban municipality shall, not later than the 15th day of November in that year, submit to the county road superintendent a certified statement showing in detail the location, nature and extent of the work done on such other roads by the urban municipality and the actual expenditures made thereon, and the county shall pay the amount of the contribution remaining due to the urban municipality under this section on or before the 31st day of December in the same year.

Subsidy to county

(5) The contribution made by the county under this section shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent thereof.

Agreement may exempt county from this section

(6) An agreement for the construction of a county road extension or connecting link under section 58 may provide that the county is to be relieved of its obligation to pay any contribution under this section so long as the amount expended by the county under the agreement is greater than

the amount that would have been paid by it from year to year under this section, and in that case this section does not apply. R.S.O. 1970, c. 201, s. 57.

Disputes as to maintenance, etc., of bridges and roads
R.S.O. 1980, c. 302

60.—(1) Sections 292 and 294 of the *Municipal Act* do not apply to a bridge or road crossing or forming a boundary line between counties or between a county and a city or separated town, where the county in the latter case, or one or more of such counties in the former case, have adopted a plan of county road construction and maintenance under this Part, and the plan includes such bridge or road.

Disputes as to county boundary lines and bridges

(2) Where there is a difference between two or more municipalities in respect of any such bridge or road as to the municipality upon which the obligation rests, as to the construction and maintenance of the bridge or road or as to the proportions in which the municipalities should respectively contribute thereto, or where two or more municipalities are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or road, every such difference shall be determined by the Board upon an application by any municipality interested in such bridge or road.

Hearing

(3) The Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality interested, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or road, and the Board may make such order as it considers just and proper, and may by the order fix and determine the amount or proportion that each municipality shall pay or contribute towards the construction and maintenance of such bridge or road.

Duration of order

(4) An order of the Board under this section is binding upon all the municipalities interested for such period as the Board determines. R.S.O. 1970, c. 201, s. 58.

Powers of county over roads assumed

61. A county has, in respect of the roads included in the county road system, all the rights, powers, benefits and advantages conferred either by by-law or agreement or otherwise upon the local municipality or local municipalities that had jurisdiction over the roads before they were included in the county road system, and the county may sue thereon in the same manner and to the same extent as the local municipality or municipalities might have done if the roads had not been included in the county road system. R.S.O. 1970, c. 201, s. 59.

Restrictions

62.—(1) A county in which a county road system has been established has, with respect to land lying within a distance of 45 metres from any limit of a county road, all the powers conferred on a local municipality by section 39 of the *Planning Act*. R.S.O. 1970, c. 201, s. 60 (1); 1979, c. 60, s. 6.

R.S.O. 1980, c. 379

Conflict with local by-law

(2) In the event of conflict between a by-law passed under subsection (1) or a predecessor thereof by a county and a by-law passed under section 39 of the *Planning Act* or a predecessor thereof by the local municipality in which the land is situate, the by-law of the county prevails to the extent of such conflict, but in all other respects the by-law passed by the local municipality remains in full force and effect. R.S.O. 1970, c. 201, s. 60 (2).

Gas pumps and signs on county roads

63.—(1) A county may, with respect to the roads under its jurisdiction and control, by by-law prohibit or regulate,

(*a*) the placing, erecting or altering of any gasoline pump within 45 metres of any limit of a road; and

(*b*) the displaying of any sign, notice or advertising device within 400 metres of any limit of a road. R.S.O. 1970, c. 201, s. 61 (1); 1979, c. 60, s. 7.

Permits

(2) A by-law passed under this section may provide for the issuing of permits for the placing, erecting, altering or displaying of any gasoline pump, sign, notice or advertising device and may prescribe the form, terms and conditions thereof and the fees to be paid therefor, and may prescribe penalties for contravention of the by-law. R.S.O. 1970, c. 201, s. 61 (2).

Roads in Indian reserves and other lands under the control of the Government of Canada

64. The Minister may arrange with the Government of Canada for the construction or maintenance, under the supervision of the county road superintendent and in accordance with the requirements of the Minister, of any road in a township or part of a township constituting an Indian reserve or of any road under the control of the Government of Canada that lies within the limits of a municipality not separated from the county for municipal purposes where the road forms an extension of or connecting link in a county road system, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to the percentage of the net expenditure made by the county under such arrangement as is provided for in section 50. R.S.O. 1970, c. 201, s. 62.

PART VIII

SUBURBAN ROADS

Suburban roads commission

65.—(1) The Lieutenant Governor in Council, upon application of a county in which a county road system is established under Part VII, may direct that a commission be appointed in respect of each city or separated town in the county and, subject to the approval of the Minister, each commission may designate roads in the county road system as suburban roads and the city or separated town shall contribute towards the construction and maintenance of such roads in accordance with this Part.

Duties

(2) The construction and maintenance of suburban roads and the expenditure thereon shall be directed by the suburban roads commission.

Composition, in city of less than 50,000 or town

(3) In the case of a city having a population of less than 50,000 or of a separated town, the suburban roads commission shall be composed of three persons, one to be appointed by the city or separated town, one by the county, and the third to be agreed upon by the two members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Idem, in city of 50,000 or more

(4) In the case of a city having a population of 50,000 or more, the suburban roads commission shall be composed of five persons, two to be appointed by the city, two by the county and the fifth to be agreed upon by the four members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Time for making appointments

(5) The city or the separated town and the county shall make their appointments of members of the suburban roads commission within thirty days from the date of the order in council directing the commission to be appointed. R.S.O. 1970, c. 201, s. 63 (1-5).

Term of office

(6) The term of office of every member of a suburban roads commission expires with the 31st day of January of the year following the next municipal election held after his appointment and his successor shall be appointed after the council elected in that election assumes office. 1980, c. 8, s. 6 (1).

Appointment where default made

(7) Where a city, separated town or county fails to make an appointment as required by this section, the appointment may be made by the Lieutenant Governor in Council.

Removal of commissioners

(8) A member of a suburban roads commission may be removed and another person appointed in his place by a vote of two-thirds of the members of the council that appointed him who are present and vote thereon at a regular meeting of the council, if notice of the intention of the council to determine the question of the removal has been given at the next preceding meeting of the council.

Vacancies

(9) Where a member of a suburban roads commission dies or resigns or is removed, the authority by which the member was appointed shall appoint another person to fill the vacancy for the remainder of the term for which the person so dying, resigning or removed was appointed.

Interest in contracts

(10) Any member of a suburban roads commission who is, directly or indirectly, interested in a contract with the commission or in which the commission has an interest *ipso facto* ceases to be a member of the commission and the vacancy so created shall be filled under subsection (9).

Incorporation and name

(11) Every suburban roads commission is a corporation and the name by which it is to be known shall be fixed by the Lieutenant Governor in Council. R.S.O. 1970, c. 201, s. 63 (7-11).

Who ineligible to act as member of commission

(12) Notwithstanding any general or special Act, no person who is a member of the Assembly or who is an employee of a municipality is eligible to be a member of a suburban roads commission. R.S.O. 1970, c. 201, s. 63 (12); 1980, c. 8, s. 6 (2).

Deposit of plan

66. A plan and description of the suburban roads designated by a suburban roads commission shall be transmitted by the commission to the Minister within six months from the date of the order in council directing the appointment of the commission, and, after the approval thereof by the Minister, no alterations or amendments thereof shall be made by the commission until approved in like manner. R.S.O. 1970, c. 201, s. 64.

Suburban roads continue as county roads

67.—(1) Suburban roads continue to be county roads under the jurisdiction and control of the county and the construction and maintenance thereof shall continue to be under the supervision of the county road superintendent but subject to the direction of the suburban roads commission, and the sums expended for construction and maintenance may be included in the statements of expenditures provided for in section 50 upon which the grants payable by the Province will be determined and paid.

Engineer of commission

(2) The work on suburban roads may be carried on under the supervision of an engineer with the same professional qualifications as a county road superintendent and employed for that purpose by the commission in place of the county road superintendent, and the provisions of this Act apply to such engineer in the same manner as to a county road superintendent, and the declaration of such engineer with respect to work and expenditure on suburban roads shall be accepted in lieu of the declaration of the county road superintendent as required by section 50. R.S.O. 1970, c. 201, s. 65 (1, 2).

Additional compensation to county road superintendent

(3) Where the county road superintendent has supervision over work on suburban roads, the commission may by resolution authorize the payment to him of such annual sum in addition to his salary as county road superintendent as is considered proper. R.S.O. 1970, c. 201, s. 65 (3); 1973, c. 67, s. 16.

Expenditures

68.—(1) The portion of the expenditures on suburban roads remaining after taking into account the grant or grants paid pursuant to section 50 shall be borne equally by the county and the city or separated town. 1973, c. 67, s. 17.

Appropriation may be by resolution of county council

(2) An appropriation for the purposes mentioned in this section may be made annually by resolution of the county council and may be made before the designation by the suburban roads commission of the roads upon which the appropriation is to be expended.

Limit of contributions by city or town

(3) The amount to be provided by the city or separated town in any year shall not exceed the proceeds of a rate of one-half mill on the dollar of the value of the rateable property of the city or separated town according to the assessment roll on which the rate of taxation for the preceding year was levied as adjusted by the Minister, unless in any year by agreement with the county council the council of the city or separated town by by-law appropriates for work on suburban roads a sum not exceeding the proceeds of a rate of two mills on the dollar of the value of such rateable property as adjusted by the Minister, but such by-law shall not be passed until the county council has appropriated an equal amount for the like purposes to be expended in the same year. R.S.O. 1970, c. 201, s. 66 (2, 3).

Notice to city or town by county clerk

69. The clerk of the county shall, not later than the 1st day of March in each year, notify the city or separated town of the amount appropriated by the county for the construction and maintenance of the suburban roads, and the treasurer of the city or separated town shall, not later than the 1st day of November following, transmit the equivalent amount

to the treasurer of the county by whom it shall be paid to the order of the suburban roads commission. R.S.O. 1970, c. 201, s. 67.

Provision for contribution by city or town to suburban roads

70.—(1) The council of each city or separated town shall provide annually or from time to time an amount equal to that appropriated by the county council for the construction and maintenance of suburban roads, and such amount is a debt due to the county by the city or separated town.

Issue of debentures for city's or town's share

(2) For the purposes of this section, the city or separated town may raise from time to time such sums as may be required for construction by the issue of debentures, as in section 48 provided, but all sums required for the purposes of maintenance shall be provided from the current revenue of the municipality. R.S.O. 1970, c. 201, s. 68 (1, 2).

Issuing town or city debentures for suburban roads

(3) Where it appears that the rate of one-half mill on the dollar mentioned in subsection 68 (3) is not sufficient to carry out permanent or extensive work, the city or separated town may raise such further sums by the issue of debentures as are considered necessary, and may apply a portion of the proceeds of the annual rate of one-half mill on the dollar on paying off such debentures. R.S.O. 1970, c. 201, s. 68 (3); 1974, c. 100, s. 5.

Assent of electors not required

(4) It is not necessary to obtain the assent of the electors to a by-law for the issue of debentures under this section or to observe the other formalities in relation thereto prescribed by the *Municipal Act*. R.S.O. 1970, c. 201, s. 68 (4).

R.S.O. 1980, c. 302

Informalities not to invalidate proceedings

71. No error or omission or insufficiency in the procedure provided for by this Act relieves a county or city or separated town from liability to contribute towards the construction and maintenance of suburban roads, and the treasurer of a city or separated town that is liable to contribute towards the construction and maintenance of suburban roads shall, not later than the 1st day of November in each year, forward to the county treasurer an amount equal to the amount appropriated by the county council for the construction and maintenance of suburban roads in that year, but the amount of such contribution shall be limited as provided by section 68. R.S.O. 1970, c. 201, s. 69.

PART IX

TOWNSHIP ROADS

Township road superintendent

72.—(1) Every township shall by by-law appoint a township road superintendent who, subject to the direction of the council, shall inspect all roads under the jurisdiction and

control of the township and shall lay out and supervise all work on such roads.

Copy of by-law to be sent to Minister

(2) A copy of every by-law appointing a township road superintendent shall be transmitted to the Minister within thirty days of the passing thereof. 1971, c. 61, s. 7.

Superintendent to conform to requirements

(3) The township road superintendent shall conform to such requirements as the Minister may prescribe.

Annual statement to Minister

(4) The council of a township in which statute labour has been abolished by by-law shall submit annually to the Minister a statement showing the amount of salary and expenses of the township road superintendent paid by the township, together with a declaration of the township treasurer that the statement is correct and also a declaration of the superintendent that he has performed in good faith the duties of superintendent, and on receipt of the statement and declarations the Minister may direct the Treasurer of Ontario to pay to the township the amount to which the township is entitled under this section.

Councillors disqualified as township road superintendent

R.S.O. 1980, c. 302

(5) Notwithstanding the *Municipal Act*, no member of the council of the township shall be appointed or act as township road superintendent or be employed by the township road superintendent in any capacity, and any such member who is appointed or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention.

Appointment by Minister

(6) Where a township receives aid from the Province in excess of 60 per cent of the cost of work done upon township roads, the Minister may appoint a road superintendent for the purpose of supervising work to be undertaken, and in that case it is not necessary for the township to appoint a road superintendent and the superintendent appointed by the Minister has and may exercise as to the work all the powers of a township road superintendent appointed under subsection (1). R.S.O. 1970, c. 201, s. 70 (3-6).

Grants in aid of township road work

73.—(1) A township in which statute labour has been abolished by by-law may submit to the Minister for approval such plans, specifications or by-laws as he requires for any or all of the following purposes:

1. Grading.

2. Drainage for road purposes.

3. Gravelling, metalling with broken stone, or the construction of any kind of road surface.

4. Dust prevention by oiling, tarring or other means.

5. The systematic maintenance by dragging, gravelling or other means.

6. The construction of bridges, culverts and approaches thereto.

7. The opening of a new road or the relocating, widening or straightening of an existing road.

8. The purchase of gravel pits, stone quarries, materials, equipment and machinery.

9. Such purposes of road improvement as the Minister approves. R.S.O. 1970, c. 201, s. 71 (1).

Allocation of moneys by Minister

(2) The Minister shall annually advise every township of the amount of moneys he has allocated to the township for road improvements for that year, and the township shall not later than the 31st day of March file with the Minister a detailed estimate showing how such allocation is proposed to be spent. 1971, c. 61, s. 8 (1).

Supplementary allocation

(3) A township may submit to the Minister in the year in which the expenditure is to be made a request for a supplementary allocation of moneys for road improvements together with a detailed estimate showing how such allocation is proposed to be spent, and the Minister may make such supplementary allocation as he considers appropriate. 1971, c. 61, s. 8 (2).

Connecting link expenditures when to be and not to be included in statement

(4) Where the construction or maintenance of a road in a township that is a connecting link or extension of the King's Highway is carried out under an agreement made with the Minister under section 21, the expenditure made by the township on such road shall not be included in the statement submitted to the Minister under this section unless the work on which the expenditure is made is additional to that provided for in the agreement and is properly chargeable to road improvement under this Part. R.S.O. 1970, c. 201, s. 71 (4).

Minister may designate work

(5) The Minister may direct that a payment to a township under this Part shall be made in respect only of the expenditure on such road improvements as he designates and in every such case the estimate filed under subsection (2) shall cover only the estimated expenditure on work so designated.

Power to spend moneys not limited

(6) This section does not limit the power of a township to spend moneys raised by it for road improvements. 1971, c. 61, s. 8 (3).

Opening or constructing road in subdivision not eligible

74. Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, no subsidy shall be paid to the township under this Part for any expenditure made on the opening or constructing of any road in the subdivision unless the road is a main thoroughfare for traffic or is designated and laid out as such and is so designated by the Minister. R.S.O. 1970, c. 201, s. 72.

Application for subsidy

75.—(1) When approved by the Minister, the work or expenditure for a purpose mentioned in section 73 shall be carried out in accordance with the requirements of the Minister and, upon the completion of any such work or expenditure, the township may submit to the Minister an application under section 76 for the subsidy authorized by this Part. R.S.O. 1970, c. 201, s. 73 (1).

Roads in Indian reserves

(2) The Minister may arrange with the Government of Canada for the appointment of a road superintendent to supervise the construction and maintenance, in accordance with the requirements of the Minister, of the roads in any township or part of a township constituting an Indian reserve, and, where such an arrangement has been made, the Government of Canada or, with the approval of the Government of Canada, the Band Council of the reserve may apply under section 76 for the subsidy authorized by this Part, and this Part, except section 72, applies with necessary modifications thereto. R.S.O. 1970, c. 201, s. 73 (3).

Annual statement to Minister

76.—(1) A township shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

(*a*) a detailed statement of receipts and expenditures in the form prescribed by the Minister;

(*b*) a declaration of the township road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;

(*c*) a declaration of the township treasurer that the statement of receipts and expenditures is correct and that it contains no item of expenditure whether for

labour or materials that was not paid to the persons performing the work or supplying the materials in cash or by cheque of the township; and

(*d*) a request, authorized by resolution of the council, for the payment of moneys allocated under section 73. R.S.O. 1970, c. 201, s. 74 (1); 1971, c. 61, s. 9 (1).

Contributions to be deducted

(2) Where a contribution has been made from any source whatsoever towards an expenditure to which this section applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. R.S.O. 1970, c. 201, s. 74 (2).

Payment to township

(3) Upon the receipt of the statement, declarations and request, the Minister may direct payment to the township treasurer out of the moneys allocated under section 73 of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

Where rate may be varied

(4) Notwithstanding subsection (3), the Minister, having regard to the economic condition of the township and the adequacy of its plan of road improvement, may direct payment to the township treasurer out of the moneys allocated under section 73 of such amount as he considers requisite,

(*a*) in the case of a bridge or culvert, up to 100 per cent; and

(*b*) in the case of any other road improvement, up to 80 per cent,

of the amount of the expenditure that is properly chargeable to road improvement. 1971, c. 61, s. 9 (2).

Exclusions

(5) Expenditure in respect of which aid may be granted under this section does not include any amount levied in the township for county road purposes. R.S.O. 1970, c. 201, s. 74 (5).

Advance payments

(6) Notwithstanding subsection (1), but subject to subsection 73 (2), the Minister may, in his discretion, direct payment to the township treasurer.

(*a*) on or after the 1st day of April in any year, of a sum not exceeding 30 per cent; and

(*b*) on or after the 1st day of July in any year, of a further sum which, together with the sum paid under clause (*a*), does not exceed 60 per cent,

of the moneys allocated to the township under subsection 73 (2). 1971, c. 61, s. 9 (3), *part*.

Limitation on payments

(7) The total of all payments made to a township under this section in respect of expenditures for road improvements made in any year shall not exceed the amount of moneys allocated to such township for that year under section 73. 1974, c. 100, s. 6.

Contribution of city or town in a provisional judicial district to improvement of township roads

77.—(1) A city or town in a provisional judicial district, by by-law passed with the assent of at least two-thirds of the members of its council, may agree with a township to share the cost of construction or maintenance of any township road that leads or is adjacent to the city or town or which, by reason of the existence of the city or town, is subject to extraordinary traffic.

How cost to be borne

(2) Where the cost of construction or maintenance of a township road is shared by a city or town under an agreement made under this section, the Minister may direct that there shall be paid to the township out of the moneys appropriated therefor by the Legislature such proportion of the expenditure made on such road as is fixed under this Part for expenditure on township roads in that township and the balance of the expenditure shall be shared equally by the township and the city or town. R.S.O. 1970, c. 201, s. 75.

Different rates in summer resort or suburban areas

78. The council of a township in which statute labour has been abolished by by-law and,

(*a*) in which subdivisions have been laid out; or

(*b*) in which parts are used or occupied as summer resorts or are adjacent to a city,

may by by-law separate the subdivisions or parts for the purposes of taxation from the remainder of the township by defining the limits of the subdivisions or parts and in imposing the township rate for road purposes may impose and levy a higher rate upon the subdivisions or parts than upon the remainder of the township, but no such by-law has effect until it has been approved in writing by the Minister and the amount raised by increasing the rate shall not be included in determining the expenditure of the township on which any subsidy may be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 201, s. 76.

PART X

CITY, TOWN AND VILLAGE ROADS

Allocation of moneys by Minister

79.—(1) The Minister shall annually advise every city, town and village of the moneys he has allocated to the city, town or village for road improvements for that year and the city, town or village shall file with the Minister not later than the 31st day of March a detailed estimate showing how such allocation is proposed to be spent.

Supplementary allocation

(2) A city, town or village may submit to the Minister in the year in which the expenditure is to be made a request for a supplementary allocation of moneys for road improvements together with a detailed estimate showing how such allocation is proposed to be spent, and the Minister may make such supplementary allocation as he considers appropriate.

Limitation on payments

(3) No payment shall be made to any city or separated town in a county that does not contribute towards the construction and maintenance of suburban roads.

Power to spend moneys not limited

(4) This section does not limit the power of a city, town or village to spend moneys raised by it for road improvement. 1971, c. 61, s. 10.

Annual statement to Minister

80.—(1) The city, town or village shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance submit to the Minister,

(*a*) a detailed statement of receipts and expenditures in the form prescribed by the Minister;

(*b*) a declaration of the engineer or other officer of the municipality who is charged with the responsibility of directing and supervising the work that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;

(*c*) a declaration of the treasurer of the municipality that the statement of receipts and expenditures is correct; and

(*d*) a request, authorized by resolution of the council, for the payment of moneys allocated under section 79. 1971, c. 61, s. 11 (1).

Payment to municipality

(2) Upon receipt of the statement, declarations and request, the Minister may direct payment to the treasurer of the

municipality out of moneys allocated under section 79 of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final. 1971, c. 61, s. 11 (2).

Where rate may be varied

(3) Notwithstanding subsection (2), in the case of a town not being a separated town or of a village, the Minister, having regard to the economic condition of the town or village and the adequacy of its plan of road improvement, may direct payment to the treasurer of the town or village out of the moneys allocated under section 79 of such amount as he considers requisite in the case of a bridge or culvert not exceeding 80 per cent of the amount of the expenditure that is properly chargeable to road improvement, and in all cases of doubt or dispute the decision of the Minister is final. 1971, c. 61, s. 11 (3).

In case of expenditure on connecting link of the King's Highway

(4) Where the construction or maintenance of a road in a city, town or village that is a connecting link or extension of the King's Highway is carried out under an agreement made with the Minister under section 21, the expenditure made by the city, town or village on such road shall not be included in the statement submitted to the Minister under this section unless the work on which the expenditure is made is additional to that provided for in the agreement and is properly chargeable to road improvement under this Part. R.S.O. 1970, c. 201, s. 78 (4).

Advance payments

(5) Notwithstanding subsection (1), but subject to section 79, the Minister may, in his discretion, direct payment to the treasurer of the municipality,

(*a*) on or after the 1st day of April in any year, of a sum not exceeding 30 per cent; and

(*b*) on or after the 1st day of July in any year, of a further sum which, together with the sum paid under clause (*a*) does not exceed 60 per cent,

of the moneys allocated to the municipality under subsection 79 (1). 1971, c. 61, s. 11 (4), *part*.

Limitation on payments

(6) The total of all payments made to a municipality under this section in respect of expenditures for road improvements made in any year shall not exceed the amount of moneys allocated to such municipality for that year under section 79. 1974, c. 100, s. 7.

Expenditures eligible for subsidy

81. Expenditures that are properly chargeable to road improvement include those made for any or all of the following purposes:

1. Opening a new road and acquiring the necessary land therefor.

2. Clearing a road of obstructions.

3. Widening, altering or diverting a road.

4. Subject to the *Public Service Works on Highways Act*, taking up, removing or changing the location of appliances or works placed on or under a road by an operating corporation. R.S.O. 1980, c. 420

5. Constructing and maintaining bridges, culverts or other structures, other than sanitary sewers, incidental to the construction of a road.

6. Grading.

7. Constructing and maintaining an approved base for the road surface including the installing and maintaining of under-drainage therefor.

8. Constructing and maintaining any type of road surface.

9. Constructing and maintaining curbs, gutters and catch basins.

10. Clearing snow and applying chemicals or abrasives to icy surfaces.

11. Such purposes of road improvement as the Minister approves. R.S.O. 1970, c. 201, s. 79.

Opening or constructing road in subdivision not eligible

82. Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, the expenditures made on the opening or constructing of any road therein are not properly chargeable to road improvement under this Part unless the road is a main thoroughfare for traffic or is designed and laid out as such and is so designated by the Minister. R.S.O. 1970, c. 201, s. 80.

Contributions to be deducted

83. Where a contribution has been made from any source whatsoever towards an expenditure to which section 80 applies, the amount of such contribution shall be deducted

from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. R.S.O. 1970, c. 201, s. 81.

Contribution of county under s. 59 may be included in statement for subsidy

84. Notwithstanding section 83, any contribution made by a county under section 59 towards the construction and maintenance of roads, other than county roads or county road extensions or connecting links, in an urban municipality not separated from the county may be included in the statement submitted to the Minister under section 80 for the purpose of determining the grant payable to such urban municipality under this Part, and where such contribution is in the form of work carried out by the county, the value of such work as certified by the county road superintendent may be so included. R.S.O. 1970, c. 201, s. 82.

King's Highway extension or connecting link

85. In the case of a city or separated town, the Minister may require that of the expenditure to be made under this Part so much as is necessary shall be made on the construction and maintenance of the roads that he designates as extensions or connecting links of the King's Highway. R.S.O. 1970, c. 201, s. 83.

Aid granted to township by city, town or village to be subsidized
R.S.O. 1980, c. 302

86. Where under section 113 of the *Municipal Act* a city, town or village grants aid to a township towards the construction or maintenance of a township road, the aid so granted is properly chargeable to road improvement and may be included in the statement of expenditures submitted to the Minister by the city, town or village under this Part. R.S.O. 1970, c. 201, s. 84.

PART XI

DISTRICT, METROPOLITAN AND REGIONAL MUNICIPAL ROADS

Interpretation

87. In this Part, "municipality" means a district, metropolitan or regional municipality. 1971, c. 61, s. 12, *part*.

Allocation of moneys by Minister

88.—(1) The Minister shall annually advise every municipality of the moneys he has allocated to the municipality for road improvements for that year and the municipality shall file with the Minister not later than the 31st day of March a detailed estimate showing how such allocation is proposed to be spent.

Supplementary allocation

(2) A municipality may submit to the Minister in the year in which the expenditure is to be made a request for a supplementary allocation of moneys for road improvements together with a detailed estimate showing how such allocation is proposed to be spent and the Minister may make such supplementary allocation as he considers appropriate.

Power to spend moneys not limited

(3) This section does not limit the power of a municipality to spend moneys raised by it for road improvement. 1971, c. 61, s. 12, *part*.

Annual statement to Minister

89.—(1) The municipality shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

(*a*) a detailed statement of receipts and expenditures in the form prescribed by the Minister;

(*b*) a declaration of the person appointed to administer and manage the municipality's road system that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister and with the approval of the proper officer of the Ministry;

(*c*) a declaration of the treasurer of the municipality that the statement of receipts and expenditures is correct; and

(*d*) a request for the payment of moneys allocated under section 88. 1971, c. 61, s. 12, *part*; 1972, c. 1, s. 1; 1974, c. 100, s. 8 (1).

Payment to municipality

(2) Upon receipt of the statement, declarations and request, the Minister may direct payment to the treasurer of the municipality out of moneys allocated under section 88 of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement, and in all cases of doubt or dispute the decision of the Minister is final.

Advance payments

(3) Notwithstanding subsection (2) but subject to section 88, the Minister may, in his discretion, direct payment to the treasurer of the municipality,

(*a*) on or after the 1st day of April in any year, of a sum not exceeding 30 per cent; and

(*b*) on or after the 1st day of July in any year, of a further sum which together with the sum paid under clause (*a*) does not exceed 60 per cent,

of the moneys allocated to the municipality under subsection 88 (1).

Payment for road improvement

(4) Notwithstanding subsection (2), where a plan of construction and maintenance of a municipality's road system has been submitted to and approved by the Minister, the Minister may, upon consideration of the estimated money needs required to implement the plan and the financial capability of the municipality, direct payment to the treasurer of the municipality out of moneys allocated under section 88 of such amount as he considers requisite but not exceeding 80 per cent of the amount of the expenditure that is properly chargeable to road improvement, and in all cases of doubt or dispute the decision of the Minister is final. 1971, c. 61, s. 12, *part*.

Limitation on payments

(5) The total of all payments made to a municipality under this section in respect of expenditures for road improvements made in any year shall not exceed the amount of moneys allocated to such municipality for that year under section 88. 1974, c. 100, s. 8 (2).

PART XII

DEVELOPMENT ROADS

Designation of development roads

90.—(1) The Minister may designate as a development road a road or proposed road under the jurisdiction and control of a town or village in a territorial district or of a township which because of the requirements of traffic he considers should be constructed, improved or maintained to a higher standard than is reasonable having regard to the economic situation of the municipality. R.S.O. 1970, c. 201, s. 85 (1); 1973, c. 67, s. 19.

Construction and maintenance agreements

(2) The Minister and the municipality may enter into an agreement for the construction or maintenance of a development road designated under subsection (1), and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost thereof as he considers requisite.

Road remains under control of municipality

(3) A development road designated under subsection (1) remains under the jurisdiction and control of the municipality. R.S.O. 1970, c. 201, s. 85 (2, 3).

PART XIII

ROADS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION

Arrangements for construction or maintenance

91.—(1) The Minister may arrange with,

(*a*) the Government of Canada;

(*b*) the local roads board elected under the *Local Roads Boards Act*; R.S.O. 1980, c. 251

(*c*) the roads commissioners elected under the *Statute Labour Act*; or R.S.O. 1980, c. 482

(*d*) a person who is the owner of land,

for the construction or maintenance of a road in territory without municipal organization, and the Minister may direct payment out of moneys appropriated therefor by the Legislature of an amount equal to such proportion of the cost of the work as he considers requisite. 1977, c. 53, s. 6.

Where incorporation desirable

(2) Where the Minister considers it desirable that the inhabitants of any territory without municipal organization should become incorporated under the *Municipal Act*, the amount that may be paid out under this section in respect of a road in that territory shall not exceed 50 per cent of the value of the labour employed on the work. R.S.O. 1970, c. 201, s. 86 (2). R.S.O. 1980, c. 302

PART XIV

RAPID TRANSIT CONSTRUCTION

Interpretation

92.—(1) In this Part,

(*a*) "municipality" includes a metropolitan or regional municipality;

(*b*) "rapid transit" means a rapid transit system or part thereof designated by the Lieutenant Governor in Council.

Items properly chargeable to rapid transit construction

(2) For the purpose of this Part, a municipality may properly charge to rapid transit construction the cost of,

(*a*) the planning and design of the rapid transit system;

(*b*) the acquisition of land required for rapid transit right-of-way, stations and yards;

(*c*) clearing the right-of-way of obstructions for the rapid transit system;

(*d*) taking up, removing or changing the location of public utilities;

(*e*) constructing tunnels, elevated guideways, stations and other structures or facilities incidental to the rapid transit system;

(*f*) constructing the roadbed for the rapid transit system, the under-drainage, tracks, rails or other surface or facility upon which to operate the rapid transit vehicles;

(*g*) rapid transit vehicles;

(*h*) constructing,

(i) storage and maintenance yards or depots for rapid transit vehicles,

(ii) power conditioning and distribution systems,

(iii) train control, signalling and safety systems, and

(iv) communication and surveillance systems; and

(*i*) such other equipment, works or services required for or in connection with the rapid transit system as the Minister may approve. 1973, c. 67, s. 20 (1), *part*.

Allocation of moneys by Minister

93.—(1) A municipality may submit to the Minister a request for an allocation of moneys for rapid transit system construction together with a detailed estimate of how such allocation is proposed to be spent, and the Minister may make such allocation as he considers appropriate. 1973, c. 67, s. 20 (1), *part*.

Annual statement to Minister

(2) Where the Minister has made an allocation of moneys under subsection (1), the municipality shall annually, and, with the consent of the Minister, may at any time during the year submit to the Minister,

(*a*) a detailed statement of receipts and expenditures in respect of the rapid transit system in the form prescribed by the Minister;

(*b*) a declaration of the treasurer of the municipality that the statement is correct;

(*c*) a declaration of an officer of the municipality or officer responsible for the rapid transit system construction that the statement contains only receipts and expenditures for such construction; and

(*d*) a request for payment of moneys allocated under subsection (1). 1973, c. 67, s. 20 (1), *part*; 1974, c. 100, s. 9.

Payment to municipality

(3) Upon receipt of the statement, declarations and request, the Minister may direct payment to the treasurer of the municipality, out of the moneys allocated under subsection (1), of an amount equal to 75 per cent of the expenditure properly chargeable to rapid transit construction and in all cases the decision of the Minister is final.

Limitation on payments

(4) The total of all payments made to a municipality under this section in respect of expenditures made for rapid transit in any year shall not exceed the amount of money allocated to such municipality for that year under this section.

Power to spend moneys not limited

(5) This section does not limit the power of a municipality to spend moneys raised by it for rapid transit.

Contributions to be deducted

(6) Where a contribution has been made from any source whatsoever towards an expenditure to which this section applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1973, c. 67, s. 20 (1), *part*.

PART XV

PUBLIC TRANSPORTATION

Interpretation

94.—(1) In this Part,

(*a*) "municipality" includes a district, metropolitan or regional municipality;

(*b*) "public transportation" means any service for which a fare is charged for transporting the public by vehicles operated by or on behalf of a municipality or a local board thereof, or under an agreement between a municipality and a person, firm or corporation and includes special transportation facilities for the physically disabled, but does not include transportation by special purpose facilities such as school buses or ambulances. 1971, c. 61, s. 14, *part*; 1979, c. 60, s. 8.

Determination of financial assistance

(2) The Minister may, having regard for the expenditures made by a municipality in respect of public transportation, including where applicable expenditures in respect of,

(*a*) the purchase or rental, maintenance and operation of street cars, buses, trolley buses and other public transportation vehicles designated by the Minister;

(*b*) the acquisition of land for and the construction and maintenance of right-of-way, storage and maintenance yards or depots, stations, passenger shelters and similar facilities;

(*c*) agreements, approved by the Minister, with a public utilities commission, or a person, firm or corporation for the supply of public transportation; and

(*d*) such other equipment, works or services required for or in connection with public transportation as the Minister may approve,

and having regard for the cost of and the revenue produced by the operation of the public transportation service, determine the extent to which such expenditures are eligible for financial assistance, but no financial assistance shall be payable under this section in respect of expenditures properly chargeable to rapid transit construction under Part XIV. 1971, c. 61, s. 14, *part*; 1973, c. 67, s. 21 (1).

Allocation of moneys by Minister

(3) The municipality may submit to the Minister a request for allocation of moneys for public transportation together with a detailed estimate of how such allocation is proposed to be spent, and the Minister may make such allocation as he considers appropriate. 1973, c. 67, s. 21 (2), *part*.

Annual statement to Minister

(4) Where the Minister has made an allocation of moneys under subsection (3), the municipality shall annually and, with the consent of the Minister, may at any time during the year submit to the Minister,

(*a*) a detailed statement of receipts and expenditures in respect of public transportation in the form prescribed by the Minister;

(*b*) a declaration of the treasurer of the municipality that the statement is correct;

(*c*) a declaration of an officer of the municipality or officer responsible for public transportation that the statement contains only receipts and expenditures for such public transportation; and

(*d*) a request for payment of moneys allocated under subsection (3). 1973, c. 67, s. 21 (2), *part*; 1974, c. 100, s. 10.

Payment to municipality

(5) Upon receipt of the statement, declarations and request, the Minister may direct payment to the treasurer of the municipality, out of moneys allocated under subsection (3), an amount equal to 75 per cent of the expenditure properly chargeable to capital costs, and 50 per cent toward the expenditure of operating costs and, in all cases, the decision of the Minister is final.

Limitation on payments

(6) The total of all payments made to the municipality under this section in respect of expenditures made for public transportation in any year shall not exceed the amount of money allocated to such municipality under this section.

Power to spend moneys not limited

(7) This section does not limit the power of a municipality to spend moneys raised by it for public transportation.

Contributions to be deducted

(8) Where a contribution has been made from any source whatsoever towards an expenditure to which this section applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1973, c. 67, s. 21 (2), *part*.

Municipal assistance to public transportation service

(9) Notwithstanding the provisions of any public or private Act, a municipality may contribute toward the cost of any public transportation service provided within the municipality and the operators of such service shall apply such contribution toward such cost. 1971, c. 61, s. 14, *part*.

Minister may enter into agreement with municipality, etc.

95.—(1) The Minister and a municipality or a public utilities commission may enter into an agreement to provide, or to sell, lease or otherwise dispose of, all or any part of an experimental or

demonstration project related to public transportation. 1973, c. 20, s. 2, *part*; 1980, c. 8, s. 7.

Minister may enter into agreement with firm or corporation

(2) The Minister may enter into an agreement with a firm or corporation, and any such agreement shall give prime consideration to Canadian content and Canadian technology,

(*a*) to provide all or any part of an experimental or demonstration project related to public transportation;

(*b*) to design, develop, construct, test and operate all or any part of a demonstration transit system related to public transportation;

(*c*) to acquire, hold, exercise, develop, license, sell, lease or otherwise dispose of rights related to all or any part of a transit system related to public transportation. 1973, c. 20, s. 2, *part*.

PART XVI

GENERAL

Controlled-access road, designation

96. Subject to the approval of the Board, a municipality may by by-law designate any road under the jurisdiction of the council of the municipality as a controlled-access road. R.S.O. 1970, c. 201, s. 88; 1976, c. 41, s. 6.

Interpretation

97.—(1) In this section, "road" includes an unopened road allowance.

Closing of intersecting municipal roads

(2) Subject to the approval of the Board, a municipality may by by-law close a municipal road that intersects or runs into a controlled-access road designated under section 96.

Application for approval

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons as the Board determines, and may further direct that particulars of claims in respect of land injuriously affected by the closing and particulars of objections to the closing shall be filed with the Board and the municipality within such time as the Board directs.

Powers of Board

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its

approval upon such terms and conditions as it considers proper.

Appeal

(5) The municipality or any person, including a municipality or a local board thereof, that has filed particulars of a claim or objection may, with leave of the Divisional Court, appeal to that court from any order made under subsection (4), and subsections 14 (4) and (5) apply with necessary modifications thereto. R.S.O. 1970, c. 201, s. 89.

Private roads, etc., opening upon controlled-access road

98.—(1) A municipality may pass by-laws prohibiting or regulating the construction or use of any private road, entrance-way, gate or other structure or facility as a means of access to a controlled-access road designated under section 96 and may impose penalties for contravention of any such by-law.

Notice

(2) The municipality may give notice to the owner of any land requiring him to close up any private road, entranceway, gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 96 in contravention of a by-law passed under subsection (1).

Service of notice

(3) Every notice given under subsection (2) shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof.

Failure to comply with notice

(4) Where the person to whom notice is given under subsection (2) fails to comply with the notice within thirty days after its receipt, the municipality may by resolution direct any officer, employee or agent of the municipality to enter upon the land of such person and do or cause to be done whatever is necessary to close up the private road, entranceway, gate or other structure or facility as required by the notice.

Offence

(5) Every person who fails to comply with a notice given under subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than $10 and not more than $100 for a first offence and to a fine or not less than $50 and not more than $500 for any subsequent offence.

Compensation

(6) Where a notice given under subsection (2) has been complied with, the municipality shall make due compensation to the owner of the land if the private road,

entranceway, gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 96 was constructed or used, as the case may be,

(*a*) before the day on which the by-law designating the road as a controlled-access road became effective; or

(*b*) in compliance with a by-law passed under subsection (1), in which case the making of compensation is subject to any provisions of such by-law.

Procedure

(7) Every claim for such compensation shall be determined in accordance with subsections 14 (2) to (5), which subsections apply with necessary modifications. R.S.O. 1970, c. 201, s. 90.

Interpretation

99.—(1) In this section,

(*a*) "expressway" means a divided arterial highway that is accessible only from intersecting arterial streets at intersections at grade that have been approved by the Minister, and, where required by the volume of traffic, at grade separated interchanges that have been approved by the Minister;

(*b*) "freeway" means a divided arterial highway that is accessible only from intersecting arterial streets at grade separated interchanges that have been approved by the Minister.

Expressways and freeways

(2) The Minister and any municipality may enter into agreement for the acquisition of land required for and for the construction, maintenance and operation of an expressway or freeway that has been or is proposed to be designated as a controlled-access road or as a controlled-access highway under this Act, and any land acquired by a municipality under such an agreement shall be deemed to be land required for the purposes of the municipality. R.S.O. 1970, c. 201, s. 91.

Power of Minister to establish, etc., ferries

100.—(1) The Minister may establish, acquire, construct, operate and maintain ferries and acquire lands, equipment and machinery necessary and incidental thereto. 1973, c. 67, s. 22, *part*.

Agreements authorized

(2) The Minister and a municipality or other person may enter into an agreement to establish, acquire, construct,

operate and maintain ferries and to acquire lands, equipment and machinery necessary and incidental thereto. 1973, c. 67, s. 22, *part;* 1977, c. 53, s. 7 (1).

Moneys

(3) The Minister may pay the whole or part of expenditures, pursuant to an agreement under subsection (2), to establish, acquire, construct, operate and maintain ferries and to acquire lands, equipment and machinery necessary and incidental thereto. 1973, c. 67, s. 22, *part*; 1977, c. 53, s. 7 (2).

Authority of road superintendent with regard to drainage R.S.O. 1980, c. 126

101. The road superintendent appointed by a road authority under this Act may, without any direction from the Minister or road authority by which he is appointed, initiate and carry out proceedings under the *Drainage Act* for the purpose of procuring proper drainage for any road within the jurisdiction and control of the road authority, and he has authority to file or receive notices as owner in accordance with the procedure prescribed by such Act. R.S.O. 1970, c. 201, s. 92.

Obtaining gravel for road purposes R.S.O. 1980, c. 302

102.—(1) Notwithstanding the *Municipal Act*, a road superintendent may, without the passing of a by-law or resolution, apply to the owner of any gravel pit or gravel land for gravel for road purposes. R.S.O. 1970, c. 201, s. 93 (1).

Application to state price offered

(2) The road superintendent shall state in the application the price per cubic metre or per hectare of such amount of gravel as he requires. R.S.O. 1970, c. 201, s. 93 (2); 1979, c. 60, s. 9.

Closing road to traffic

103.—(1) While a work authorized by this Act is in progress on a road, other than the King's Highway, the road superintendent or a person authorized by him may close to traffic the road for such time as the road superintendent or such person, as the case may be, considers necessary.

Alternative route to be provided

(2) While a road is so closed to traffic, the municipality having jurisdiction and control of the road shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, and for the period during which the road is closed to traffic the alternative route is under the jurisdiction and control of that municipality.

Barricades

(3) While a road is so closed to traffic, the road superintendent or a person authorized by him shall protect it by erecting or causing to be erected at each end of it,

and, wherever an alternative route deviates from it, a barricade upon which a red or a flashing amber light visible for a distance of 500 feet shall be exposed and kept burning or operating continuously from sunset until sunrise, and at such points shall put up a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.

No municipal liability

(4) Every person using a road closed to traffic in accordance with this section does so at his own risk and the municipality having jurisdiction and control of the road is not liable for any damage sustained by a person using a road so closed to traffic.

Offence

(5) Every person who without lawful authority uses a road so closed to traffic while it is protected in accordance with subsection (3), or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on conviction is liable to a fine of not more than $50 and is also liable to the municipality having jurisdiction and control for any damage or injury occasioned by such wrongful use, removal or defacement.

Application of section to special cases

(6) This section applies to any road for which provision has been made under any Act for the construction, maintenance and control thereof by a commission appointed by the Lieutenant Governor in Council. R.S.O. 1970, c. 201, s. 94.

Repair and maintenance of road by Ministry on default of municipality

104. Where an engineer of the Ministry reports to the Minister that a municipal road is out of repair, the Minister may, after at least two months notice in writing to the municipality, direct the Ministry to undertake the work of putting the road in repair, and the cost of the work is chargeable to and is a debt due from the municipality to the Crown, and the Minister may direct that the cost shall be deducted from any sums of money payable to the municipality under this Act. R.S.O. 1970, c. 201, s. 95; 1972, c. 1, s. 1.

Excavated material

105. Notwithstanding any other Act, no earth, debris or excavated material shall be deposited within the limits of a road without permission in writing so to do from the road authority responsible for the maintenance of the road. R.S.O. 1970, c. 201, s. 96.

Local municipalities may construct sidewalks, etc.

106.—(1) A local municipality may construct a sidewalk or other improvement or service on a highway or road with the written consent of the authority having jurisdiction and control of the highway or road.

How cost provided

(2) The cost of such a sidewalk, improvement or service may be met out of the general funds of the local municipality or out of funds of the authority having jurisdiction and control of the highway or road, or the work may be undertaken as a local improvement under the *Local Improvement Act*. R.S.O. 1980, c. 250

Local municipality to conform to requirements and be responsible for damage

(3) A local municipality when constructing such a sidewalk, improvement or service shall conform to any requirements or conditions imposed by the authority having jurisdiction and control of the highway or road, and is responsible for any injury or damage occasioned by the construction or presence of the sidewalk, improvement or service.

Construction of sidewalk or footpath

(4) A township may apply to the Minister for authority to construct a sidewalk or footpath on the King's Highway or a county road and the Minister may grant the authority, and upon completion of the work may approve thereof at his discretion, and, upon the approval being given, the township may apply to the Minister in the form prescribed by him for the payment to it out of the moneys appropriated therefor by the Legislature of an amount not exceeding 50 per cent of the cost of the work, and the Minister may authorize the payment. R.S.O. 1970, c. 201, s. 97.

Planting trees

107. A municipality or suburban roads commission may plant trees on its roads, and the cost of the work shall be deemed to be part of the cost of maintaining the road. R.S.O. 1970, c. 201, s. 98.

Agreement with owner for removal

108.—(1) A road superintendent, with the approval of the road authority, may enter into an agreement with the owner of any land adjacent to a road under the jurisdiction and control of the road authority for the removal of any tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjoining the road and that may cause the drifting or accumulation of snow or may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road, and the agreement may provide for the amount of compensation to be paid to the owner for damages caused to him by reason of the removal.

Application to judge for order to remove

(2) Where the road superintendent is of the opinion that a tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjacent to the road will cause the drifting or

accumulation of snow or will injuriously affect the road or will obstruct the vision of pedestrians or drivers of vehicles on the road and he is unable to agree with the owner of the land for the removal of the same or as to the amount of compensation to be paid therefor, he may, with the approval of the road authority, apply to the judge of the county court of the county in which the land affected is situated for an order authorizing him to enter upon the land affected and remove any object with respect to which the application is made, and the judge, upon such notice to the owner of the land as he considers proper, may make such order and may fix the amount of compensation to be paid to the owner and give such directions as to costs as in his opinion are equitable.

Application of R.S.O. 1980, c. 222

(3) The *Judges' Orders Enforcement Act* applies to every application and order made under subsection (2).

By-laws for clearing adjacent land

(4) A county or township may by by-law determine and fix the distance from the centre line of a road under its jurisdiction and control within which the owner of any lands adjacent to the road shall not plant or cause to be planted any tree, shrub, bush or hedge, or erect or cause to be erected any fence, sign board, gasoline pump, building or other structure that may cause the drifting or accumulation of snow or that may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road. R.S.O. 1970, c. 201, s. 99.

Agreements for widening

109.—(1) A municipality, other than a city or separated town, may make an agreement with the road authority having jurisdiction and control of the King's Highway, a county road or a suburban road for the widening of the highway or road in the municipality, and may make a further agreement with the road authority and any municipality or commission interested in the highway or road and with any municipality, commission or company owning or operating a street railway or electric railway on the highway or road fixing the proportions in which the cost of the widening and of the removal or replacing or altering of the tracks of the street railway or electric railway consequent upon the widening shall be borne by the municipality, the road authority, any municipality or commission interested in the highway or road and by the municipality, commission or company owning or operating the street railway or electric railway. R.S.O. 1970, c. 201, s. 100 (1); 1976, c. 41, s. 7.

Apportioning cost

(2) Where the parties to the proposed agreement are unable to agree as to the proportion in which each of them shall so contribute, the proportion shall be determined by

the Board and the decision of the Board is final and conclusive and is not subject to any appeal.

By-law for acquiring land

(3) Subject to the terms of the agreement entered into with the road authority for the widening of the highway or road, the municipality may pass by-laws for acquiring by purchase or otherwise or for expropriating any land described in the agreement or necessary to carry out the provisions thereof, and the *Municipal Act* as to the acquiring, occupying or taking of land for municipal purposes applies to the acquiring, occupying or taking of land under the by-law. R.S.O. 1980, c. 302

Voluntary contributions from municipalities

(4) A county not having jurisdiction and control of the highway or road but through which the highway or road passes may agree to contribute to the cost of the widening of the highway or road, but nothing in this section renders it compulsory for the county to so contribute. R.S.O. 1970, c. 201, s. 100 (2-4).

Aid to commissions governing certain localities

110. A commission appointed under an Act of the Legislature for the purpose of exercising or carrying out in any particular locality powers elsewhere exercisable by a municipality with respect to the construction of roads has the like rights and powers and shall perform the like duties and is entitled to the same aid as a township under this Act. R.S.O. 1970, c. 201, s. 101.

Vouchers

111. Where a subsidy is applied for under this Act, vouchers covering all expenditures in respect of which the subsidy is applied for shall be furnished to the Minister in a form satisfactory to him and the Minister may require the production of any book, statement, or other document respecting the subsidy. R.S.O. 1970, c. 201, s. 102.

Approval of by-laws by Minister

112. Any by-law that is submitted to the Minister for approval under this Act may be approved in whole, in part or subject to conditions and, where the by-law is approved in part or subject to conditions, the by-law has force and effect only as so approved. R.S.O. 1970, c. 201, s. 103.

Warrant

113.—(1) If resistance or opposition is made to the Minister or any person authorized by him entering upon land under this Act or exercising any other power in respect of land under this Act, except where such power is or would result in expropriation or injurious affection to which the *Expropriations Act* applies, the Minister may apply to a judge of the Supreme Court or to the judge R.S.O. 1980, c. 148

of the county or district court of the county or district in which the land is situate for a warrant in Form 1 directing the sheriff of the county or district to put down such resistance or opposition or to take such steps as may be necessary to enable the Minister to exercise such power.

Hearing

(2) The judge shall in writing appoint a time and place for the hearing of the application and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes.

Issue of warrant

(3) On proof of such resistance or opposition and of the intention of the Minister to exercise a power in respect thereof, the judge may issue the warrant.

Execution of warrant

(4) The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. R.S.O. 1970, c. 201, s. 104.

How cost to be provided

114. The cost of material, labour, special engineering or other services, land and property or options thereon, plant, machinery and equipment and the repair and maintenance of plant, machinery or equipment and all expenditure in or about any work undertaken by the Minister under this Act or incidental thereto, or contracts therefor, shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 201, s. 105.

Highway Construction Account

115.—(1) The Highway Reserve Account in the Consolidated Revenue Fund is continued under the name of the Highway Construction Account and such amounts as are appropriated by the Legislature for that account shall be credited to that account.

Idem

(2) The Minister may pay out of the Highway Construction Account expenditures incurred in the construction of highways. R.S.O. 1970, c. 201, s. 106.

Disposition of fines

116. Notwithstanding anything in any other Act, all fines and other penalties recovered for offences under this Act committed on or with respect to a highway under the jurisdiction and control of the Ministry shall be paid to the Ministry. R.S.O. 1970, c. 201, s. 107; 1972, c. 1, s. 1.

FORM 1

(*Section 113*)

WARRANT

PROVINCE OF ONTARIO
COUNTY (*or* DISTRICT) OF

IN THE MATTER OF the *Public Transportation and Highway Improvement Act*
AND IN THE MATTER OF
.....

To

SHERIFF, ETC.:

WHEREAS resistance or opposition has been made to the Minister of Transportation and Communications or a person authorized by him entering upon the land described as follows:

AND WHEREAS the proof required by section 113 of the *Public Transportation and Highway Improvement Act* has been made before me;

THIS IS THEREFORE to command you in Her Majesty's name forthwith to put down such resistance or opposition and take such steps as may be necessary to enable the Minister of Transportation and Communications to ....., and to make a return to me of your execution hereof.

GIVEN under my hand this.....day of....., 19....

.....
JUDGE

R.S.O. 1970, c. 201, Form 1; 1971, c. 61, s. 1.

CHAPTER 422

Public Trustee Act

Qualification and staff

1.—(1) The Lieutenant Governor in Council may appoint a member of the bar of Ontario of not less than five years standing to be Public Trustee, and may appoint such persons as officers, clerks and servants in the office of Public Trustee as are necessary for the purposes of this Act.

Public Trustee a corporation

(2) The Public Trustee is a corporation sole under the name "Public Trustee" with perpetual succession and an official seal, who may sue and be sued in his corporate name. R.S.O. 1970, c. 389, s. 1.

Deputy or deputies

2.—(1) The Lieutenant Governor in Council may appoint one or two persons to act as the deputy or the deputies, as the case may be, of the Public Trustee during his absence or illness, and while so acting each such deputy has all the powers and may perform any of the duties of the Public Trustee.

Acting Public Trustee

(2) In the case of the death of the Public Trustee, the deputy who in point of time is senior in appointment to office shall act as Public Trustee until the Public Trustee is appointed. R.S.O. 1970, c. 389, s. 2.

When Attorney General to act

3. In the case of the illness or absence of the Public Trustee or if the office becomes vacant and no deputy has been appointed, the Attorney General is *ex officio* Public Trustee until another appointment is made. R.S.O. 1970, c. 389, s. 3; 1972, c. 1, s. 9 (7).

Salaries

4. The salaries or other remuneration of the Public Trustee and of the officers, clerks and servants in his office shall be fixed by the Lieutenant Governor in Council and may be paid out of the moneys that are appropriated by the Legislature for that purpose or out of any fund established under this Act, as the Lieutenant Governor in Council from time to time may direct. R.S.O. 1970, c. 389, s. 4.

Duties

R.S.O. 1980, cc. 105, 65

5. The Public Trustee shall discharge the duties imposed upon him by the *Crown Administration of Estates Act*, the *Charities Accounting Act* and any other Act of the Legislature or by the Lieutenant Governor in Council, and he shall also make inquiries from time to time as to property that has escheated, or become forfeited for any cause to the Crown,

or in which the Crown in right of Ontario may be interested. 1971, c. 50, s. 73 (1), *part*.

Powers of inquiry

R.S.O. 1980, c. 411

6. For the purposes of an inquiry under section 5, the Public Trustee has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. 1971, c. 50, s. 73 (1), *part*.

Acceptance and execution of trusts

7.—(1) The Public Trustee may be granted letters probate or letters of administration and, with his consent in writing, may be appointed trustee of any will or settlement or other instrument creating a trust or duty in the same manner as if he were a private trustee.

May be appointed sole trustee

(2) The Public Trustee may be appointed sole trustee although the trust instrument contemplates two or more trustees, and any person who is a trustee with the Public Trustee may at any time retire from the trust upon passing his accounts and paying over the balance. R.S.O. 1970, c. 389, s. 7.

Fees and charges

8.—(1) The Public Trustee shall make the charges prescribed by the regulations made under this Act for his services against every estate that comes to his hand to be dealt with.

To be allowed same fees as private trustee

(2) All fees, charges, and expenses that would be allowed to a private trustee shall be allowed to the Public Trustee and shall be collected and accounted for in the manner prescribed by the regulations made under this Act.

Services of staff may be charged for

(3) Notwithstanding this or any other Act, the Public Trustee may in connection with any estate or trust administered or managed by him make a reasonable charge for any service performed by a member of the staff of his office where the service is one for which a charge would be allowed as a disbursement against the estate or trust if performed by a person retained, engaged or employed to perform such service by a private trustee, and every such charge shall for the purpose of such estate or trust be deemed to be a disbursement. R.S.O. 1970, c. 389, s. 8.

Administration fund

9.—(1) All fees, charges, remuneration, refunds of expenses, and all income of the office of every description shall be paid by the Public Trustee into a separate account as prescribed by the regulations made under this Act.

Payments out of account

(2) There shall be paid out of such account the salaries or other remuneration and the expenses of the Public Trustee and the officers, clerks and servants in his office.

Assurance fund

(3) From any surplus in such account there may be established an assurance fund as provided by the regulations made under this Act.

Moneys received under R.S.O. 1980, c. 105

(4) Notwithstanding the *Crown Administration of Estates Act*, the Lieutenant Governor in Council may direct that moneys coming to the hand of the Public Trustee under that Act shall be placed to the credit of such account and applied to the purposes of subsection (2).

Payment over of balances

(5) The Lieutenant Governor in Council may from time to time direct the payment into the Consolidated Revenue Fund of any balance at the credit of such account.

Manner of paying into and out of account

(6) Payments into and out of such account shall be made in such manner and subject to such conditions as are prescribed in the regulations made under this Act. R.S.O. 1970, c. 389, s. 9.

Delivery up of property $2,000 or less in value

10.—(1) Where the Public Trustee acting in any capacity has in his hands property not exceeding $2,000 in value of a person who has died and to which his personal representative is entitled, the production to the Public Trustee of,

(*a*) an authenticated copy of the probate of the will of the deceased, or of letters of administration of his estate, or of letters of verification of heirship, or of the act of curatorship or tutorship, granted by any court in Canada having power to grant the same, or by any court or authority in a country of the Commonwealth or any colony, dependency or protectorate of any such country, or of any testament-testamentar or testamentdative expede in Scotland;

(*b*) an authentic copy of the will of the deceased, if it is in notarial form according to the law of the Province of Quebec; or

(*c*) if the deceased died elsewhere than in a place mentioned in clause (*a*), any authenticated copy of the probate of his will, or of letters of administration of his property, or other document of like import, granted by any court or authority having the requisite power in such matters,

is sufficient justification and authority for the delivering of such property in pursuance of and in conformity with such probate, letters of administration, or other document.

Deposit of copy of document

(2) When the authenticated copy or other document of like import is produced to the Public Trustee under subsection (1), there shall be deposited with him a true copy thereof. R.S.O. 1970, c. 389, s. 10.

Losses, how to be made good

11. All sums required to discharge any liability for a loss that the Public Trustee, if he were a private trustee, would be personally liable to discharge, shall be made good out of the assurance fund or out of the Consolidated Revenue Fund, but neither the Public Trustee nor any of his officers nor the assurance fund is liable for any loss that would not have imposed liability upon a private trustee. R.S.O. 1970, c. 389, s. 11.

Charitable and public trusts

12. The Public Trustee may accept and administer any charitable or public trust. R.S.O. 1970, c. 389, s. 12.

Investment of money

13. Any money that is available for investment by the Public Trustee shall be invested in investments in which the Treasurer of Ontario and Minister of Economics may invest public money under section 3 of the *Financial Administration Act*. R.S.O. 1970, c. 389, s. 13; 1972, c. 3, s. 17 (1).

R.S.O. 1980, c. 161

Regulations

14. The Lieutenant Governor in Council may make regulations,

(*a*) respecting the office of Public Trustee, imposing duties on the Public Trustee in addition to those imposed by this Act, and prescribing the trusts or duties he is authorized to accept or undertake under this Act, and the security, if any, to be given by the Public Trustee and his officers;

(*b*) for fixing the fees and charges in the office of the Public Trustee and the application and disposal of the same;

(*c*) respecting the transfer to and from the Public Trustee of any property;

(*d*) respecting the accounts to be kept;

(*e*) for the establishment of an assurance fund for the purpose of meeting any losses for which the office of Public Trustee may be liable;

(*f*) fixing the rate of interest to be allowed upon money in the hands of the Public Trustee and fixing the amount of interest to be charged upon advances made on behalf of any estate and the custody and control of securities held by him for investments;

(*g*) for constituting an advisory committee for the supervision of the investments or other dealings with property by the Public Trustee, and for providing for the remuneration by fees, or otherwise, of the members of the committee. R.S.O. 1970, c. 389, s. 14; 1971, c. 50, s. 73 (2).

Advisory committee

15.—(1) The members of the advisory committee of the Public Trustee are visitors of the office of Public Trustee.

Suggestions

(2) The committee may make such suggestions and recommendations with regard to the general policy respecting the management and conduct of the office of Public Trustee as is considered advisable.

Consultations

(3) The Public Trustee may consult with the committee from time to time as to methods of administration, staff and other matters relating to the office.

Annual report

(4) The committee shall make an annual report to the Lieutenant Governor in Council respecting the performance of their duties and the exercise of their powers under this section. R.S.O. 1970, c. 389, s. 15.

Security by Public Trustee not necessary

16. Notwithstanding any rule or practice or any Act requiring security, it is not necessary for the Public Trustee to give any security for the due performance of his duty as executor, administrator, trustee, committee, or in any other office to which he may be appointed by order of any court or under any statute. R.S.O. 1970, c. 389, s. 16.

Audit

17. The Provincial Auditor shall examine and report upon the accounts and financial transactions of the Public Trustee. R.S.O. 1970, c. 389, s. 17.

Matters confidential

18. Every person employed in the performance of the duties imposed upon the Public Trustee by this or any other Act or by the Lieutenant Governor in Council shall preserve secrecy with respect to all matters that come to his knowledge in the course of such employment and shall not communicate any such matters to any person other than to a person legally entitled thereto or to his legal counsel except as may be required in connection with the administration of this Act and the regulations under this Act or any proceedings thereunder. 1971, c. 50, s. 73 (3), *part*.

Report

19. The Public Trustee shall, at the end of each fiscal year, prepare a report on his operations and submit it to the Attorney General who shall submit the report to the Lieutenant Governor in Council and then lay the report before the Assembly, if it is in session or, if not, at the next ensuing session. 1971, c. 50, s. 73 (3), *part*; 1972, c. 1, s. 9 (7).

CHAPTER 423

Public Utilities Act

Interpretation

1. In Parts III, IV, V and VI, "public utility" means water, artificial or natural gas, electrical power or energy, steam or hot water. R.S.O. 1970, c. 390, s. 1.

PART I

MUNICIPAL WATERWORKS

Establishment of works and expropriation of land, etc.

2.—(1) The corporation of a local municipality may, under and subject to the provisions of this Part, acquire, establish, maintain and operate waterworks, and may acquire by purchase or otherwise and may enter on and expropriate land, waters and water privileges and the right to divert any lake, river, pond, spring or stream of water, within or without the municipality, as may be considered necessary for waterworks purposes, or for protecting the waterworks or preserving the purity of the water supply.

Power to acquire existing works

(2) The corporation may purchase the waterworks of any person situate within or in the neighbourhood of the municipality and may improve and extend them, and, for the purpose of any improvement or extension, may exercise all the powers conferred by this Part.

Areas

(3) The council of the corporation may define an area in the municipality and may assess and levy on the rateable property in the area the cost of the waterworks including debenture charges, the cost of maintenance and management and the cost of the water, or any part thereof. R.S.O. 1970, c. 390, s. 2.

Application of R.S.O. 1980, cc. 302, 148

3. Parts XIII and XIV of the *Municipal Act* and the *Expropriations Act* apply to the exercise by the corporation of any of the powers conferred by this Part. R.S.O. 1970, c. 390, s. 3.

Construction of necessary works

4.—(1) The corporation may construct and maintain, in and upon the land acquired by it, such reservoirs, water and other works, plant and machinery as may be requisite for the undertaking, and may, by pipes or otherwise, convey the water thereto and therefrom, in, upon and through any land lying between the reservoirs and waterworks and the lake, river, pond, spring or stream of water from which the water is

procured or between them, or any of them, and the municipality.

Power to enter on intermediate lands

(2) The corporation and its servants may for such purposes enter and pass upon and over such intermediate land, and may, if necessary, cut and dig up the same and lay pipes through it, and in, upon, through, over and under the highways, lanes and other public communications within or without the municipality, and in, upon, through, over and under the land of any person within the municipality.

Duty of restoration

(3) All such highways, lanes or other public communications, and all land, not being the property of the corporation, shall be restored to their original condition without unnecessary delay.

Power to expropriate

(4) The corporation may purchase or expropriate, use and occupy such part of such intermediate land as it considers necessary for the making and maintaining of the works, or for the opening of new streets required for the same, or for the protection of the works, or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the pipes, and for distributing water to the inhabitants of the municipality, or for the uses of the corporation or of the owners or occupants of the land through or near which the pipes may pass. R.S.O. 1970, c. 390, s. 4.

Power to lay down pipes

5. For the purpose of distributing the water, the corporation may sink and lay down pipes, tanks, reservoirs and other conveniences, and may from time to time alter their location or construction as the corporation considers advisable. R.S.O. 1970, c. 390, s. 5.

Service pipes

6.—(1) The service pipes shall be laid down from the main pipe to the line of the highway by the corporation, and the corporation is responsible for keeping the same in repair.

Laying of, from line of street to wall of building

(2) Where a vacant space intervenes between the outer line of a highway and the wall of a building or other place into which the water is to be taken, the corporation may, with the consent of the owner, lay the service pipe across the vacant space to the interior face of the outer wall and charge the cost thereof to the owner of the premises, or the owner may himself lay the service pipe, if it is done to the satisfaction of the corporation.

Expenses of laying

(3) The expense incidental to the laying and repairing of service pipes if laid or repaired by the corporation, except the repairing of the service pipes from the main pipe to the line of a highway, or of superintending the laying or repairing of

the same if laid or repaired by any other person, is payable by the owner to the corporation on demand, and if not so paid may be collected in the same manner as water rates.

Expenses of superintending

(4) The expense of superintending the laying or repairing of a service pipe shall not exceed $1. R.S.O. 1970, c. 390, s. 6.

Service pipe to be under control of corporation

7.—(1) The service pipes from the line of a highway to the interior face of the outer wall of the building supplied, together with all branches, couplings, stopcocks and apparatus placed therein by the corporation are under its control, and if any damage is done to that portion of the service pipe or its fittings the owner or occupant of the building shall forthwith repair the same to the satisfaction of the corporation, and, in default of his so doing, whether notified or not, the corporation may enter upon the land where the service pipe is and repair the same, and charge the cost thereof to the owner or occupant of the premises, and the cost may be collected in the same manner as water rates.

Prohibition as to using stopcock

(2) The stopcock placed by the corporation inside the wall of the building shall not be used by the water taker, except in case of accident, or for the protection of the building or the pipe and to prevent the flooding of the premises.

Approval of taps by corporation

(3) Persons supplied with water by the corporation may be required to place only such taps for drawing and shutting off the water as are approved of by the corporation. R.S.O. 1970, c. 390, s. 7.

Regulation of use of water and of rates

8. The corporation may regulate the distribution and use of the water in all places where and for all purposes for which it may be required, and fix the prices for the use thereof, and the times of payment, and may erect such number of public hydrants and in such places as it may see fit, and may direct in what manner and for what purposes the same shall be used, and may fix the rate or rent to be paid for the use of the water by hydrants, fireplugs and public buildings. R.S.O. 1970, c. 390, s. 8.

Rates at which water to be supplied to provincial institutions

9.—(1) The corporation of every municipality having a system of waterworks shall supply water at all times to all public institutions situate therein or within five kilometres thereof and belonging to or maintained by the Province of Ontario at such rents, rates or prices as may be fixed by by-law of the corporation, but not exceeding those charged to manufacturers, but any expenditure on works beyond the limits of the municipality chargeable to capital account shall be borne and paid by the Province of Ontario. R.S.O. 1970, c. 390, s. 9 (1); 1978, c. 87, s. 46 (1).

Penalty

(2) For every contravention of subsection (1), the corporation is liable to a penalty of not more than $500, recoverable by action at the suit of the Crown. R.S.O. 1970, c. 390, s. 9 (2).

Non-liability for breakage or stoppage

10. The corporation is not liable for damages caused by the breaking of any service pipe or attachment, or for shutting off of water to repair or to tap mains, if reasonable notice of the intention to shut off the water is given. R.S.O. 1970, c. 390, s. 10.

Power to supply water outside municipality

11.—(1) A corporation may supply water to owners or occupants of land beyond the limits of the municipality. R.S.O. 1970, c. 390, s. 11 (1).

Contracts for supply of water

(2) A corporation may enter into a contract for a term not exceeding twenty years for the supply of water,

(*a*) to any person within or beyond the limits of the municipality; and

R.S.O. 1980, c. 303

(*b*) to any other municipality, as defined in the *Municipal Affairs Act*, for its use or for resale or to the inhabitants thereof for their use,

and may renew any such contract. R.S.O. 1970, c. 390, s. 11 (2); 1972, c. 1, s. 104 (6).

Consent to lay pipes

(3) Where water is supplied in a municipality that has a waterworks, no pipes for such purpose shall be carried in, upon, through, over or under any highway, lane or public communication within the municipality without the consent of the council thereof.

Laying of pipes in supplying municipality

(4) Subject to sections 2 to 4, where a municipality contracts to purchase water from a municipal corporation, it may with the consent of the council of the supplying municipality enter upon the lands and streets within the supplying municipality to lay and maintain such pipes as are necessary to obtain the water from the waterworks system of the supplying municipality. R.S.O. 1970, c. 390, s. 11 (3, 4).

Power to regulate supply and to prohibit wrongful use of water

12. The corporation may pass by-laws for regulating the time, manner, extent and nature of the supply by the works, the building or persons to which and to whom the water shall be furnished, the price to be paid therefor, and every other matter or thing related to or connected therewith that it may be necessary or proper to regulate, in order to secure to the inhabitants of the municipality a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the corporation with regard to the

water so supplied, and for providing that for a contravention of any such by-law the offender is guilty of an offence and on conviction is liable to a fine of not more than $300 or may be imprisoned without the option of a fine for a term of not more than one month. R.S.O. 1970, c. 390, s. 12.

Prohibitions and penalties

13. Every person who,

(a) wilfully hinders or interrupts, or causes or procures to be hindered or interrupted the corporation, or any of its officers, contractors, agents, servants or workmen, in the exercise of any of the powers conferred by this Act;

(b) wilfully lets off or discharges water so that the water runs waste or useless out of the works;

(c) being a tenant, occupant, or inmate of any house, building or other place supplied with water from the waterworks, improperly wastes the water or, without the consent of the corporation, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own or increases the supply of water agreed for;

(d) without lawful authority wilfully opens or closes any hydrant, or obstructs the free access to any hydrant, stopcock, chamber, pipe, or hydrant-chamber, by placing on it any building material, rubbish, or other obstruction;

(e) throws or deposits any injurious, noisome or offensive matter into the water or waterworks, or upon the ice, if the water is frozen, or in any way fouls the water or commits any wilful damage, or injury to the works, pipes, or water, or encourages the same to be done;

(f) wilfully alters any meter placed upon any service pipe or connected therewith, within or without any building or other place, so as to lessen or alter the amount of water registered; or

(g) lays or causes to be laid any pipe or main to communicate with any pipe or main of the waterworks, or in any way obtains or uses the water without the consent of the corporation,

is guilty of an offence and on conviction is liable to a fine of not more than $300 or may be imprisoned, without the option of a fine, for a term of not more than one month. R.S.O. 1970, c. 390, s. 13; 1979, c. 62, s. 1.

Power to levy special rate

14.—(1) For the purpose of assisting in the payment of any debentures issued for waterworks purposes, and the interest thereon, the corporation may impose a special tax in each year, during the currency of the debentures, not exceeding four mills in the dollar according to the assessed value thereof, upon the land fronting or abutting upon any highway, lane or other public communication in, through or along which the waterworks mains are laid, as well as all other land distant not more than 100 metres therefrom, which enjoy the advantage of the use of the water for the purpose of protection against fire, whether or not the owners or occupants thereof use the water for general purposes. R.S.O. 1970, c. 390, s. 14 (1); 1978, c. 87, s. 46 (2).

Power to remit special tax

(2) The collector of taxes, upon the production by an owner or occupant using the water of the receipt for the payment of the rate or rent chargeable for the use thereof during the year, or such proportion thereof as equals the special tax, shall remit or allow to the owner or occupant the amount so paid as a payment of or on account of the special tax. R.S.O. 1970, c. 390, s. 14 (2).

Construction of mains, etc., for benefit of individuals

15. If one or more property owners within a municipality applies to the council for the construction of water mains and other works necessary to connect their properties with the waterworks system of the corporation, the council may by by-law provide for the extension of the mains and pipes and for all other works necessary to make the connection, and for permitting the applicants to receive the benefit of the waterworks upon such terms as the council considers just, and the by-law may further provide that the cost of the work shall be charged as an annual special rate upon the land of the applicants, designated in the application, and the rate shall be payable whether or not the applicants or the owners for the time being of the lands continue to use the water. R.S.O. 1970, c. 390, s. 15.

Power to levy special rate

16.—(1) The corporation may impose a special rate or rent in respect of the cost or maintenance of a water main on persons who own or occupy land in the municipality or in a water area where the land fronts or abuts on a highway, lane or other public communication in, through or along which the main is laid, but no such person is liable to pay a special rate or rent in respect of the cost of the main where local improvement rates for the main have been or are being levied upon the land so owned or occupied.

(2) The special rate or rent may be collected in the same manner and with like remedies as water rates or in the same manner and with like remedies as taxes under the *Municipal Act*. R.S.O. 1970, c. 390, s. 16. Manner of collection R.S.O. 1980, c. 302

PART II

MUNICIPAL PUBLIC UTILITY WORKS OTHER THAN WATERWORKS

17. In this Part, "public utility" means artificial and natural gas, electrical power or energy, steam or hot water. R.S.O. 1970, c. 399, s. 17. Interpretation

18.—(1) The corporation of any municipality may manufacture, procure, produce and supply for its own use and the use of the inhabitants of the municipality any public utility for any purpose for which the utility may be used, and for such purposes may purchase, construct, improve, extend, maintain and operate any works that may be considered requisite and may acquire any patent or other right for the manufacture, production or supply of any such public utility, and for any of the said purposes or for any purpose for which a public utility may be used, may acquire by purchase or otherwise fittings, fixtures, apparatus, appliances, machines, meters and other equipment and may supply or dispose of the same by sale, lease or otherwise and may provide for the installation and maintenance thereof in or upon the lands and premises of users of the public utility. Power of corporation to produce and supply public utilities

(2) The corporation may sell and dispose of coke, tar, and every other by-product or residuum obtained in or from its works, and any surplus coal it may have on hand. May sell by-products

(3) The corporation may purchase or rent such land and buildings as may be considered necessary for the purpose of its undertaking. R.S.O. 1970, c. 390, s. 18. May rent or purchase lands

19.—(1) Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into, the corporation of any municipality or any municipal commission established under this or any other Act which supplies to any person electrical power or energy supplied to it by Ontario Hydro may allocate and distribute its available power amongst its customers and interrupt or decrease the delivery of electrical power or energy under any contract at any time that its own supply of electrical power or energy is interrupted or decreased by Ontario Hydro pursuant to the *Power Corporation Act*. R.S.O. 1970, c. 390, s. 19 (1); 1973, c. 57, s. 19. Allocation and distribution of available power R.S.O. 1980, c. 384

No breach of contract

(2) Nothing done under subsection (1) shall be deemed a breach of contract or entitles any person to rescind any contract or release any guarantor from performance of his obligations. R.S.O. 1970, c. 390, s. 19 (2).

Power to expropriate lands for works

R.S.O. 1980, cc. 302, 148

20. The corporation may acquire by purchase, lease or otherwise, or may expropriate any land in the municipality that may be required for its works or any extension thereof, and Part XIII of the *Municipal Act* and the *Expropriations Act* apply where appropriate to the exercise by the corporation of the power to expropriate and of the power conferred by section 23. R.S.O. 1970, c. 390, s. 20.

Corporation may carry pipes, etc., on highways

21. The corporation, for the purpose of any municipal public utility works, has and always has had authority to put down, carry, install, construct, erect and maintain such conduits, pipes, wires, poles, rods, cables, transformers, machinery, apparatus, devices, appliances, equipment, materials, structures or works as it considers necessary or desirable, on, over, under or across any highway, lane or other public communication or, with the consent of the owner of private property, on, over, under or across such private property and has and always has had authority to remove or replace any of them. R.S.O. 1970, c. 390, s. 21.

May carry pipes, etc., through buildings to serve other parts of buildings

22.—(1) The corporation may carry conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment to any part of any building within the municipality parts of which belong to different owners, or are in possession of different tenants or occupants, passing over the property of any owner or of any tenant or occupant to convey the public utility to the part of the building to which it is to be conveyed.

Method

(2) Such conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment shall be carried up and attached to the outside of the building unless consent is obtained from the owner, tenant or occupant concerned to carry them in the inside of the building. R.S.O. 1970, c. 390, s. 22.

May break up passages common to neighbouring owners, etc.

23. The corporation may also break up and uplift all passages common to neighbouring owners, tenants or occupants, and dig or cut trenches therein, for the purpose of laying down conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment, or taking up, examining or repairing the same, and shall do as little damage as possible in the execution of the powers hereby conferred, and shall restore such passages to their original condition without unnecessary delay. R.S.O. 1970, c. 390, s. 23.

Contracts for supply of utility

24. The corporation may enter into a contract for the supply of a public utility to any person, including a municipality as defined in the *Municipal Affairs Act*, for a term not exceeding twenty years, and may renew any such contract. R.S.O. 1970, c. 390, s. 24; 1972, c. 1, s. 104 (6).

R.S.O. 1980, c. 303

Power to carry works into adjoining municipalities

25. A corporation possessing or intending to construct works under this Act may, under the authority of a by-law of an adjoining local municipality, exercise the like powers within the adjoining municipality, including the power to supply the public utility to owners and occupants of land in the adjoining municipality, as it may exercise within its own municipality upon such terms and conditions as may be agreed upon. R.S.O. 1970, c. 390, s. 25.

PART III

ALL MUNICIPAL PUBLIC UTILITIES

Application of Part

26. This Part applies to all municipal corporations owning or operating public utilities. R.S.O. 1970, c. 390, s. 26.

By-laws for maintenance and management of works

27.—(1) The council may pass by-laws for the maintenance and management of the works and the conduct of the officers and others employed in connection with them, and may also by by-law or resolution fix the rates or charges for supplying the public utility and the charges to meet the cost of any work or service done or furnished for the purpose of a supply of a public utility, and the rent of or charges for fittings, apparatus, meters or other things leased or furnished to consumers and provide for the collection of such rates, charges and rents, and the times and places when and where they shall be payable, and for allowing for prepayment or punctual payment such discounts as may be considered expedient.

Discretion as to rates to be charged

(2) In fixing the rents, rates or prices to be paid for the supply of a public utility the corporation may use its discretion as to the rents, rates or prices to be charged to the various classes of consumers and also as to the rents, rates or prices at which a public utility shall be supplied for the different purposes for which it may be supplied or required.

Power to shut off supply

(3) In default of payment, the corporation may shut off the supply but the rents or rates in default are, nevertheless, recoverable.

Default of payment of sewer rate or sewage service rate

(4) Where rates that are based on the water rates or charges charged or chargeable in respect of any land are imposed on the owners or occupants of such land in respect of the construction, operation or maintenance of sewage works

or in respect of sewage service, the corporation may, in default of payment of the rates in respect of sewage works or sewage service, shut off the supply of water provided by the corporation to such land, but the rates in default are, nevertheless, recoverable. R.S.O. 1970, c. 390, s. 27 (1-4).

Interpretation

(5) In subsection (4), "sewage works" and "sewage service" mean sewage works and sewage service as defined in the *Ontario Water Resources Act*. R.S.O. 1970, c. 390, s. 27 (5); 1972, c. 1, s. 70 (1).

R.S.O. 1980, c. 361

Action to recover amount payable

(6) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to Ontario Hydro is a debt and may be recovered by action in a court of competent jurisdiction. R.S.O. 1970, c. 390, s. 27 (6); 1973, c. 57, s. 19.

Amount of rate

28. No rate to provide for the maintenance or management of any utility shall be levied except to the extent to which the revenues from the utility are insufficient for such purposes. R.S.O. 1970, c. 390, s. 28.

Change of frequency

29.—(1) Where Ontario Hydro changes the periodicity in alternations of current at which it supplies electrical power or energy to a municipal corporation or a commission, the corporation or commission may change the periodicity in alternations of current at which it supplies that electrical power or energy to any person, notwithstanding any agreement heretofore or hereafter made. R.S.O. 1970, c. 390, s. 29 (1); 1973, c. 57, s. 19.

Conversion not breach of contract

(2) Nothing done under subsection (1) shall be deemed a breach of contract by the municipal corporation or commission or entitles any person to rescind any agreement or release any guarantor from the performance of his obligation, or renders the municipal corporation or commission, its servants or agents liable in any action or other legal proceeding for damages or otherwise. R.S.O. 1970, c. 390, s. 29 (2).

Extent to which amount payable to form lien on land

30.—(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to Ontario Hydro for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due, and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands and in the case of an amount payable by the owner of lands, the amount is a lien and charge upon

the lands in the same manner and to the same extent as municipal taxes upon land. 1979, c. 62, s. 2.

Entry by clerk on collector's roll

(2) The clerk of the municipality shall, upon notice to him of the amount due and of the person by whom it is due and of the lands upon which a lien is claimed, enter the amount upon the collector's roll and the collector shall proceed to collect the amount from the goods and chattels and the estate or interest in the lands of the person liable in the same way, as nearly as may be, as municipal taxes are collected.

Right to distrain

(3) The municipal corporation or the public utility or hydro-electric commission, before taking proceedings under subsection (2), may itself distrain upon the goods and chattels of the person liable to pay for the amount due for any public utility supplied to him.

Determination of amount payable in case of dispute

(4) In the event of the owner of the goods and chattels or of the land disputing the amount payable for the public utility, the question of the amount due may be determined by the judge of the county court upon a summary application at the instance of either party and the collector's roll or distress warrant shall, if necessary, be amended in accordance with the findings of the judge. R.S.O. 1970, c. 390, s. 30 (2-4).

Protection and powers of officers

31. The officers of the corporation, when acting in the discharge of their duties under this Act, are constables *ex officio*. R.S.O. 1970, c. 390, s. 31.

Limitation of actions

32. No action shall be brought against any person for anything done in pursuance of this Act, but within six months next after the act committed, or in case there is a continuation of damage, within one year after the original cause of action arose. R.S.O. 1970, c. 390, s. 32.

Property exempt from execution

33. Materials procured under contract with the corporation and upon which the corporation has made advances in accordance with the contract, are exempt from execution against the person who supplied or contracted to supply the materials. R.S.O. 1970, c. 390, s. 33.

Excess of receipts over expenditures to be paid to municipal treasurer

R.S.O. 1980, c. 302

34.—(1) Notwithstanding anything in the *Municipal Act*, the receipts arising from supplying any public utility or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operations of the utility and after making any provision authorized by the council for a reserve fund established under section 165 of

R.S.O. 1980, c. 302

the *Municipal Act*, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality and shall be placed to the credit of the utility in a separate account until the debentures and other forms of capital debt have been retired, and thereafter shall form part of the general funds of the municipality. R.S.O. 1970, c. 390, s. 35 (1).

Application of receipts

(2) Where debentures or other forms of capital debt are outstanding in any year against the utility, the treasurer of the municipality shall apply the receipts paid over under subsection (1) in payment of the amount required to be levied under any debenture by-law of the municipality for the construction, extension or improvement of the utility, or with the approval of the council or the Ministry of Intergovernmental Affairs,

(*a*) in payment of temporary advances required for current expenditures of the utility pending the collection of revenue; or

(*b*) in the reduction of any indebtedness incurred with respect to the works and equipment of the utility; or

(*c*) in the maintenance, repair, renewal or extension of the utility; or

(*d*) in establishing a reserve fund to be used at any future time for any purpose mentioned in this subsection. R.S.O. 1970, c. 390, s. 35 (2); 1972, c. 3, s. 17 (2).

Where levy of rate necessary

R.S.O. 1980, cc. 302, 250

(3) Except where a water works rate is imposed under section 218 of the *Municipal Act*, it is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under the *Local Improvement Act*, except to the extent to which the receipts paid over under subsection (1) are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. R.S.O. 1970, c. 390, s. 35 (3).

Electric utilities excepted

(4) This section does not apply to any electrical public utility for which electrical power and energy are supplied by Ontario Hydro. R.S.O. 1970, c. 390, s. 35 (4); 1973, c. 57, s. 19.

Electrical utilities

35. The receipts arising from supplying an electrical public utility for which electrical power and energy are supplied by Ontario Hydro or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operation of the utility and any payments required by the *Power Corporation Act*, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality to the extent and in such amounts as are necessary to provide for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the distribution of electrical power and energy, and it is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under the *Local Improvement Act*, except to the extent to which the receipts paid over hereunder are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. R.S.O. 1970, c. 390, s. 36; 1973, c. 57, s. 19.

R.S.O. 1980, c. 384

R.S.O. 1980, c. 250

Disposal of public utility properties

36.—(1) Subject to subsections (4), (5) and (6), the corporation may, free from any charge or lien, sell, lease or otherwise dispose of a public utility undertaking, or the whole or any part of the real or personal property acquired, held or used for or in connection with a public utility undertaking, which in the opinion of the council is no longer required for the purpose of the corporation or for the undertaking.

Application of proceeds of disposal

(2) The proceeds derived from any sale, lease or other disposition of such undertaking or property shall be applied in redemption and payment of any debentures of the corporation issued in respect of the public utility undertaking, or if there are no such debentures, then in case of sale or disposal of a portion only of the property the proceeds thereof shall be applied for the undertaking in connection with which the property was held or used and in case of sale or disposal of the whole of the property or of the undertaking the proceeds thereof shall form part of the general funds of the corporation, and any security received or held by the corporation for any part of the consideration payable on the sale, lease or other disposition shall stand as security for such debentures or be applied for the undertaking or form part of the general funds of the corporation, as the case may be. R.S.O. 1970, c. 390, s. 37 (1, 2).

Approval necessary as to application of proceeds

(3) In a case where there are no debentures to the redemption and payment of which proceeds derived from any

sale or disposal of an undertaking or property may be applied, the proceeds may be applied in redemption of other debentures of the corporation or with the approval of the Ontario Municipal Board may be applied for purposes of a capital nature, provided that where a portion only of the property of an undertaking for the supply of electrical power or energy obtained from Ontario Hydro is sold or disposed of the proceeds shall be applied only as Ontario Hydro may approve. R.S.O. 1970, c. 390, s. 37 (3); 1973, c. 57, s. 19.

When assent of electors requisite

(4) A corporation shall not sell, lease or otherwise dispose of the whole of a public utility undertaking or the whole of the property acquired, held or used for or in connection with a public utility undertaking without the assent of the electors qualified to vote on money by-laws first being obtained thereto in the manner provided by the *Municipal Act* with respect to a money by-law requiring the assent of the electors.

R.S.O. 1980, c. 302

When approval of Ontario Municipal Board requisite for sale

(5) A corporation shall not sell, lease or otherwise dispose of a portion only of the property acquired or held for or in connection with a public utility undertaking so long as that portion is actually used for the purposes of the undertaking, except with the approval of the Ontario Municipal Board, and on such application the Board may direct that the assent of the electors qualified to vote on money by-laws shall first be obtained in the manner aforesaid. R.S.O. 1970, c. 390, s. 37 (4, 5).

When assent of Ontario Hydro requisite

(6) A corporation shall not sell, lease or otherwise dispose of the whole of the public utility undertaking for the supply of electrical power or energy obtained directly or indirectly from Ontario Hydro or of the whole of the property acquired, held or used for or in connection therewith or of any part thereof that is no longer required for the undertaking or for the purpose of the corporation, or for so long as the undertaking is being operated by or for the corporation, sell, lease or otherwise dispose of any part of the property that is actually used for the purposes of the undertaking without the assent of Ontario Hydro first being obtained thereto. R.S.O. 1970, c. 390, s. 37 (6); 1973, c. 57, s. 19.

Procedure when a commission operates a utility

(7) Where the powers of a corporation with respect to a public utility undertaking are exercised by a commission, the council shall, upon the request of the commission, submit to the qualified electors a by-law to authorize any sale, lease or other disposition of the undertaking or the whole or any part of the property acquired, held or used for or in

connection therewith that under this section is required to be assented to by the electors.

Short leases excepted

(8) Subsections (4), (5) and (6) do not apply to a lease for a term not exceeding five years of a portion of the property of a public utility undertaking.

Application of section

(9) This section applies to sales, leases and other dispositions of a public utility undertaking and of any property acquired, held or used for or in connection with a public utility undertaking, completed after the 1st day of March, 1931. R.S.O. 1970, c. 390, s. 37 (7-9).

PUBLIC UTILITY COMMISSION

Establishment of municipal commission

37.—(1) Subject to subsections (2) to (6), the council of a municipal corporation that owns or operates works for the production, manufacture or supply of any public utility or is about to establish such works, and the council of a township corporation that has entered into a contract with Ontario Hydro for a supply of electrical power or energy in the township, may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the works and the control and management of the works to a commission to be called "The Public Utilities Commission of the (*naming the municipality*)," or in the case of such township, "The Hydro-Electric Commission of the Township of (*naming the township*)" or to a commission established under this Part. R.S.O. 1970, c. 390, s. 38 (1); 1973, c. 57, s. 19.

Appointment of commission for village

R.S.O. 1980, c. 384

(2) Where the corporation of a village has entered into a contract with Ontario Hydro under the *Power Corporation Act* for a supply of electrical power or energy, a commission may be established by by-law of the council under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and it is not necessary that the by-law receive the assent of the electors. R.S.O. 1970, c. 390, s. 38 (2); 1973, c. 57, s. 19.

Village commissions already established

(3) Every such commission established by the council of a village before the 12th day of April, 1917 shall be deemed to have been lawfully established, and the by-law establishing the commission shall be deemed to be and to have been legal, valid and binding from the time of the passing thereof, notwithstanding that the by-law was passed and the commission was established without the assent of the electors first having been obtained.

Repeal of village by-law establishing commission

(4) A by-law passed by the council of a village for the establishment of a commission without the assent of the electors may be repealed by the council at any time and it is not necessary to obtain the assent of the electors to the repeal.

Assent of electors

(5) Where a by-law establishing a commission in a village has been passed with the assent of the electors, the by-law may be repealed with the like assent.

Effect of repeal

(6) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works are vested in the council and the commission ceases to exist. R.S.O. 1970, c. 390, s. 38 (3-6).

Commissions established under R.S.O. 1897, cc. 234, 235 continued

38. A commission established under *The Municipal Light and Heat Act* or *The Municipal Waterworks Act*, being chapters 234 and 235 of the Revised Statutes of Ontario, 1897, or under a special Act for the construction or the control and management of works for the manufacture, production or supply of any public utility shall be deemed to be a commission established under this Part and the provisions of this Part apply to it. R.S.O. 1970, c. 390, s. 39.

One commission for several public utilities

39.—(1) Where a commission has been established under this Part as to any public utility and the corporation desires to entrust the control and management of any other public utility works to a commission, subject to subsection (3), such control and management shall be entrusted to the commission so established, or if there is more than one commission so established to one of them, or the by-law may provide for placing under the control and management of one commission all public utility works owned by the corporation.

Name

(2) Where the construction of any other public utility works and the control and management of them is entrusted to any of the commissions mentioned in section 38, the commission thereafter shall be called "The Public Utility Commission of the (*naming the municipality*)". R.S.O. 1970, c. 390, s. 40 (1, 2).

Special provisions as to Electric Commission

(3) Where the corporation of a city or town has entered into a contract with Ontario Hydro for the supply of electrical power or energy, a commission shall be established under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and for the purposes of this subsection it is not necessary that the by-law receive the assent of the electors, or such control and management shall be entrusted

to an existing public utilities commission, and, where the commission is not entrusted with the control and management of any other public utility, it shall be called "The Hydro-Electric Commission of the (*naming the municipality*)". R.S.O. 1970, c. 390, s. 40 (3); 1973, c. 57, s. 19.

Special Act not affected

(4) Subsection (3) is subject to any special Act providing for the control and management of such works. R.S.O. 1970, c. 390, s. 40 (4).

Certain by-laws not to be repealed

(5) A by-law of the council, for the purposes mentioned in subsection (3), shall not be repealed without the consent of Ontario Hydro. R.S.O. 1970, c. 390, s. 40 (5); 1973, c. 57, s. 19.

Provision for management of sewerage system

R.S.O. 1980, c. 302

(6) If no commission has been established under this Part to which the control and management of a sewerage system, to which section 220 of the *Municipal Act* applies, may be entrusted, a commission may be established under this Part for the control and management of the sewerage system, and the provisions of this Part apply to it. R.S.O. 1970, c. 390, s. 40.

Powers of commission

40.—(1) Subject to subsection (4), where a commission has been established under this Part and the members thereof have been elected or where the control and management of any other public utility works are entrusted to a commission established under this Part, all the powers, rights, authorities and privileges that are by this Act conferred on a corporation shall, while the by-laws for establishing the commission or entrusting it with the control and management remain in force, be exercised by the commission and not by the council of the corporation.

Officers of corporation to hold office

(2) The officers and employees of the corporation shall be continued until removed by the commission unless their engagement sooner terminates.

During pleasure

(3) Every officer, employee and servant of a commission shall hold office during the pleasure of the commission.

Council to provide money required for works

(4) Nothing in this section divests the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any money so provided, and nothing in this Act divests the council of the rights and powers conferred upon it by the *Local Improvement Act*.

R.S.O. 1980, c. 250

Limitations on powers of commission

(5) Where the construction or control and management of a public utility works belonging to a municipal corporation is entrusted to a commission,

(*a*) no part of the works shall be undertaken in or extended into and no supply of the public utility shall be furnished to or in any other municipality by the commission without the consent of the council of the corporation to which the public utility works belong; and

(*b*) no extensions, additions, enlargements, improvements or alterations in, of or to the works shall be undertaken by the commission without the consent of the council of the corporation to which the public utility works belong, if the cost or any part of the cost is intended to be provided for out of moneys that under section 34 are required to be paid to the treasurer of the municipality. R.S.O. 1970, c. 390, s. 41.

Number of commissioners

41.—(1) A commission established under this Part is a body corporate and shall consist of three or five members as may be provided by the by-law, of whom the head of the council shall be one *ex officio* and the others shall be elected by general vote at elections held under the *Municipal Elections Act*. 1979, c. 62, s. 3 (1).

R.S.O. 1980, c. 308

Areas

(2) When the commission functions in a defined area or areas, the members to be elected shall be elected by the electors of the area or areas, as the case may be. R.S.O. 1970, c. 390, s. 42 (2).

Increasing or decreasing number of commission members

(3) Where a commission has been in existence for not less than five years, the council of the corporation may by by-law provide that from the time of the municipal elections next ensuing the number of members of the commission,

(*a*) if it consists of three members, shall be increased to five members; or

(*b*) if it consists of five members, shall be decreased to three members,

subject, however, to the assent of the electors if the existing number of members was established by a by-law passed with the assent of the electors. R.S.O. 1970, c. 390, s. 42 (5).

(4) Nothing in subsection (3) affects the *ex officio* membership in a commission of the head of council. 1979, c. 62, s. 3 (3). Head of council not affected

(5) Where the number of members of a commission is increased or decreased by a by-law passed under subsection (3), no further change in the number of members shall be made until the by-law has been in force for not less than five years. R.S.O. 1970, c. 390, s. 42 (11). Future changes in commission membership

(6) Except where otherwise expressly provided, the provisions of Parts II and III of the *Municipal Act* that are applicable to members of the council of a local municipality apply with necessary modifications to the commissioners to be elected under this Part. R.S.O. 1970, c. 390, s. 42 (12); 1979, c. 62, s. 3 (4). Mode of election R.S.O. 1980, c. 302

42.—(1) Where a vacancy in the commission occurs from any cause, the council shall immediately appoint a successor who shall hold office during the remainder of the term for which his predecessor was elected. Filling of vacancies

(2) A majority of the commissioners constitutes a quorum of the commission. R.S.O. 1970, c. 390, s. 43. Quorum

43.—(1) The salary, if any, of the commissioners shall from time to time be fixed by the council and no member of the council, except the head thereof, shall at the same time be a member of the commission. R.S.O. 1970, c. 390, s. 44 (1). Salary of commissioners

(2) Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by Ontario Hydro and also the control and management of works for one or more other public utilities, no utility shall be charged with more than its *pro rata* share, according to the number of utilities operated, of any costs, charges and expenditures incurred or made by the commission for any joint purpose, including rents and the salaries of the joint employees without the consent and approval of Ontario Hydro. R.S.O. 1970, c. 390, s. 44 (3); 1973, c. 57, s. 19. Approval of commission as to share of costs

(3) Where electrical power or energy received under contract from Ontario Hydro is being distributed in a municipality, the electric utility shall not be charged with more than its *pro rata* share approved by Ontario Hydro of any costs, charges and expenditures incurred or made jointly for the purpose of the utility and for any other municipal purpose including in such costs, charges and expenditures all rents and the salaries and wages of joint employees. R.S.O. 1970, c. 390, s. 44 (4); 1973, c. 57, s. 19. Approval of Ontario Hydro as to sharing cost with municipality

Repeal of by-law

44.—(1) The council may, by by-law passed with the assent of the municipal electors, repeal any by-law passed under sections 37, 38 and 39.

Apportionment of salaries

(2) Where a by-law is repealed, the council shall apportion the current year's salary of the commissioners, and any officer or employee of the commission shall be continued until removed by the council unless his engagement sooner terminates. R.S.O. 1970, c. 390, s. 45.

Books and accounts

45.—(1) Separate books and accounts of the revenues derived from every public utility under its management shall be kept by the commission, and such books and accounts shall also be kept separate from the books and accounts relating to the other property, funds, or assets connected with such public utility, and such books and accounts shall be open to inspection by any person appointed for that purpose by the council. R.S.O. 1970, c. 390, s. 46 (1).

Idem
R.S.O. 1980, c. 303

(2) Subsection (1) is subject to section 3 of the *Municipal Affairs Act*. R.S.O. 1970, c. 390, s. 46 (2); 1972, c. 1, s. 104 (6).

Annual statement to council

46.—(1) The commission shall on or before the 1st day of April in each year or upon such other day as the council may direct, furnish to the council a statement of affairs of each public utility undertaking, including in respect of each undertaking,

(*a*) the number of customers supplied during the previous calendar year;

(*b*) a balance sheet of assets and liabilities, including the value of the physical property, the amount of the sinking fund and the amount of current assets, also the amount of outstanding debentures and of current liabilities; and

(*c*) a statement of revenue and expenditure, including the amount received from customers and the amount of other revenue, if any, also the amount expended for operation and maintenance, improvements and extensions, and for salaries and other office and management expenses, and the amount paid or set aside for interest, principal and sinking fund on the debentures.

Information for council

(2) The commission shall also furnish such information as may be required by the council at any time.

(3) The accounts of the commission shall be audited by the auditors of the corporation, and the commission and its officers shall furnish to the auditors such information and assistance as may be in their power to enable the audit to be made. Audit of accounts

(4) The commission may, if it so desires, appoint auditors to audit the accounts of the commission, the expense to be borne by the utility. R.S.O. 1970, c. 390, s. 47. Commission's auditors

47. A book wherein shall be recorded all the proceedings of the commission shall be kept and shall be open to inspection by any person appointed for that purpose by the council. R.S.O. 1970, c. 390, s. 48. Records of proceedings

PART IV

ALL MUNICIPAL AND COMPANY PUBLIC UTILITIES

48. This Part applies to all municipal or other corporations owning or operating public utilities. R.S.O. 1970, c. 390, s. 49. Application of Part

49.—(1) Any person authorized by the corporation for that purpose has free access, at all reasonable times, and upon reasonable notice given and request made, to all parts of every building or other premises to which any public utility is supplied for the purpose of inspecting or repairing, or of altering or disconnecting any service pipe, wire or rod, within or without the building, or for placing meters upon any service pipe or connection within or without the building as he considers expedient and for that purpose or for the purpose of protecting or regulating the use of the meter, may set it or alter the position of it, or of any pipe, wire, rod, connection or tap, and may alter or disconnect any service pipe. Inspection of premises

(2) The corporation may fix the price to be paid for the use of the meter, and the times when and the manner in which the price shall be payable, and may also recover the expense of such alterations, and such price and the expense of such alterations may be collected in the same manner as rents or rates for the supply of a public utility. Prices for use of meters

(3) Where a consumer discontinues the use of the public utility, or the corporation lawfully refuses to continue any longer to supply it, the officers and servants of the corporation may, at all reasonable times, enter the premises in or upon which the consumer was supplied with the public utility, for the purpose of cutting off the supply of the utility or of making an inspection from time to time to determine whether Removal of fittings from premises of consumers

the utility has been or is being unlawfully used or for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes or other things being the property of the corporation in or upon the premises, and may remove the same therefrom, doing no unnecessary damage.

Power to require security from consumer

(4) Any corporation before supplying any public utility to any person or to any building or premises, or as a condition of continuing to supply the utility, may require any consumer to give reasonable security for the payment of the proper charges therefor or for carrying the public utility into the building or premises. R.S.O. 1970, c. 390, s. 50.

Property of corporation exempt from distress

50. No property of the corporation used for or in connection with the supply of any public utility is liable to be seized for rent due to the landlord of any land or building whereon or wherein the property may be or under execution against the owner or occupant of the land or building. R.S.O. 1970, c. 390, s. 51.

Liability of persons doing damage

51. Every person who, by act, default, neglect or omission occasions any loss, damage or injury to any public utility works, or to any plant, machinery, fitting or appurtenances thereof is liable to the corporation therefor. R.S.O. 1970, c. 390, s. 52.

Penalty for wilful damage

52. Every person who wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, service pipe, conduit, wire, rod or fitting belonging to the corporation, or wilfully impairs or knowingly suffers the same to be altered or impaired, so that the meter indicates less than the actual amount of the public utility that passes through it, is guilty of an offence and on conviction is liable to a fine, to the use of the corporation, of not more than $300 and for the expenses of repairing or replacing the meter, lamp, lustre, service pipe, conduit, wire, rod or fitting and double the value of the surplus public utility so consumed, all of which is recoverable under the *Provincial Offences Act*. R.S.O. 1970, c. 390, s. 53.

R.S.O. 1980, c. 400

Penalty for injuring public utility works

53. Every person who wilfully extinguishes any public lamp or light, or wilfully removes, destroys, damages, fraudulently alters or in any way injures any pipe, conduit, wire, rod, pedestal, post, plug, lamp or other apparatus or thing belonging to the corporation is guilty of an offence and on conviction is liable to a fine, to the use of the corporation, of not more than $300, and is also liable for all damages occasioned thereby, which are recoverable under the *Provincial Offences Act*. R.S.O. 1970, c. 390, s. 54.

Corporation to supply buildings on line of supply, on request

54. Where there is a sufficient supply of the public utility, the corporation shall supply all buildings within the municipality situate upon land lying along the line of any supply pipe, wire or rod, upon the request in writing of the owner, occupant or other person in charge of any such building. R.S.O. 1970, c. 390, s. 55.

Prohibition as to laying main pipes and conduits within two metres of existing ones

55.—(1) Main pipes or conduits for carrying or conveying any public utility underground in any highway, lane or public communication shall not be laid down therein by a municipal corporation or company within the distance of two metres of the main pipes or conduits for carrying or conveying any public utility underground of any person without the consent of such person or the authority of the Ontario Municipal Board. R.S.O. 1970, c. 390, s. 56 (1); 1978, c. 87, s. 46 (3).

Ontario Municipal Board may grant leave to lay pipes within less than two metres

(2) The Board, upon the application of the corporation or company, and after notice to such person and hearing any objections that may be made, may authorize the main pipes or conduits to be laid down within such distance less than two metres as may be considered proper, and all main pipes and conduits laid down in accordance with such authority shall be deemed to have been laid down under statutory authority and to be lawfully laid down, and may be maintained and operated by the corporation or company without its incurring any liability to such person in respect of the construction, maintenance or operation of them, except that provided for by subsection (5), any general or special statute or law to the contrary notwithstanding. R.S.O. 1970, c. 390, s. 56 (2); 1978, c. 87, s. 46 (3).

Conditions

(3) Such authority may be granted subject to such conditions as the Board considers necessary to prevent injury to the main pipes or conduits of such person, or to such person, his servants and workmen, in maintaining, repairing and operating them.

Exercise of powers

(4) The powers conferred by this section may be exercised from time to time as occasion may require. R.S.O. 1970, c. 390, s. 56 (3,4).

Compensation for damages

(5) If any damage or injury is done to the main pipes or conduits of such person, or is occasioned in the maintenance of them, by reason of the main pipes or conduits of the corporation or company being laid down at a distance less than two metres from the main pipes or conduits of such person, no action lies in respect thereof, but the corporation or company doing such damage or injury shall make due compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned, or as to the amount of compensation, shall be determined by arbitration, and the provisions of the *Municipal Act* apply with necessary modifications. R.S.O. 1970, c. 390, s. 56 (5); 1978, c. 87, s. 46 (3).

R.S.O. 1980, c. 302

Claim for damages

(6) The person claiming damages shall, within one month after the expiration of any calendar year in which he claims that any such damage or injury has been so done or occasioned, give notice in writing to the corporation of his claim and the particulars thereof, and upon failure to do so, the right to compensation in respect of the damage or injury done or occasioned during that calendar year is forever barred. R.S.O. 1970, c. 390, s. 56 (6).

PART V

ALL COMPANY PUBLIC UTILITIES

Application of Part

56. This Part applies to every company incorporated for the purpose of supplying any public utility. R.S.O. 1970, c. 390, s. 57.

Conditions precedent to company carrying on business or expropriating land

R.S.O. 1980, c. 309

57.—(1) The company shall not exercise any of its powers within a municipality unless a by-law of the council of the municipality has been passed with the assent of the municipal electors where such assent is required by the *Municipal Franchises Act* authorizing the company to exercise the power and the company when so authorized may exercise any of the powers of expropriation conferred on a municipal corporation by Parts I and II, if the power to expropriate is conferred on it by the letters patent incorporating the company or by supplementary letters patent.

Power to carry pipes through land within 10 miles of municipality

(2) Subject to subsection (1), a company may conduct any of its pipes or carry any of its works through the land of any person lying within ten miles of the municipality for supplying which the company was incorporated.

Expropriation

R.S.O. 1980, c. 148

(3) The *Expropriations Act* applies to an expropriation under this section. R.S.O. 1970, c. 390, s. 58.

Remedy for price of public utility furnished

58. If any person supplied with any public utility neglects to pay rent, rate or charge due to the company at any of the times fixed for the payment thereof, the company, or any person acting under its authority, on giving forty-eight hours previous notice, may stop the supply from entering the premises of the person by cutting off the service pipes or by such other means as the company or its officers consider proper, and the company may recover the rent or charge due up to that time, together with the expenses of cutting off the supply, notwithstanding any contract to furnish it for a longer time. R.S.O. 1970, c. 390, s. 59.

Charges by exporting gas companies

59. Where a natural gas company or natural gas transmitting company produces or transmits gas for export, the

price or charge at which the gas shall be supplied is subject to regulation by the Lieutenant Governor in Council. R.S.O. 1970, c. 390, s. 60.

General powers

60. The provisions of sections 5, 6 and 7, except as to the manner of recovering charges and expenses, sections 9, 10 and 11 as to making agreements for a supply of water to a railway company or manufactory, and sections 13, 17, 18, 21, 22, 23 and 24, apply with necessary modifications, to a company. R.S.O. 1970, c. 390, s. 61.

PART VI

ACQUIRING WORKS FROM COMPANIES

Municipalities may acquire works of company

61.—(1) Where a by-law of the council of an urban municipality is passed with the assent of the electors entitled to vote on money by-laws declaring that it is expedient to acquire the works of a company incorporated on or after the 10th day of March, 1882 for the purpose of supplying within the municipality any public utility, the corporation may take possession of the works of the company and all property used in connection therewith for the purposes of supplying the public utility, whether the works and property, or any of them, are within or without the municipality, and, except where the acquisition thereof results in expropriation to which the *Expropriations Act* applies, shall pay therefor at a valuation to be determined by arbitration under the *Municipal Act*, subject to the provisions hereinafter mentioned.

R.S.O. 1980, cc. 148, 302

Mode of computing value

(2) The arbitrators, in determining the amount to be paid for the works and property, shall first determine the actual value thereof, having regard to what they would cost if the works should be then constructed or the property then bought, making due allowance for deterioration, wear and tear, and all other proper allowances, and shall increase the amount so ascertained by 10 per cent thereof, which increased sum the arbitrators shall award as the amount to be paid by the corporation to the company, with interest from the date of their award.

Time within which amount to be paid

(3) The amount shall be paid within six months from the date of the award, and the council shall take all requisite steps for providing the amount, and it is not necessary that a by-law passed for borrowing the amount shall receive the assent of the electors.

Determination of value without assent of electors

(4) The council may, without submitting the question to the vote of the electors, take the proceedings authorized by subsection (1) for determining the amount to be paid for the

works and property, upon notice to the company that the corporation intends to acquire the works and property by arbitration under the provisions of this Act, but in such case any by-law for raising money to pay therefor requires the assent of the electors and until the by-law is finally passed, the corporation shall not, unless with the consent of the company, take possession of the works or property, and in the event of the by-law not being passed, the corporation shall indemnify the company for all costs it has been put to in and about the arbitration.

Amount may be settled by agreement

(5) The council and the company may agree as to the amount to be paid for the works and property or any of them.

If amount not paid, rights of company to revive

(6) If the amount awarded or agreed to be paid to the company is not paid within six months after the time at which it is payable, the company may resume possession of its works and property, and all its rights in respect thereof thereupon revive.

Certain companies may consent to be bound by section

(7) Any company incorporated before the 10th day of March, 1882, may, by by-law, declare that the company consents to be bound by the provisions of this section, and upon the passing of the by-law, this section applies to the company.

Limitations as to by-laws

(8) A by-law may be passed under subsection (1), with respect to a company incorporated before the 10th day of March, 1882, if an agreement has been made between the company and the corporation under which the corporation has the right at any time, or at any time after a date thereby fixed, not being later than ten years from the date of the agreement, to acquire the works of the company and all property used in connection therewith for such purposes, at a valuation to be determined by arbitration under the *Municipal Act*.

R.S.O. 1980, c. 302

Certain rights not affected

(9) Nothing in this section affects the right of a municipal corporation to acquire the works and property of any public utility company by agreement with the company, or any right of acquisition that has been or may be secured by any such corporation independently of the provisions of this section. R.S.O. 1970, c. 390, s. 62.

Power to subscribe for stock, etc.

62.—(1) Subject to the *Municipal Act*, the corporation of any municipality that has power to construct such works, and in which the public utility works of a company are situate, may subscribe for shares or take stock in the company or may loan money to it on mortgage or otherwise or guarantee payment of money borrowed by it.

When the head to be a director

(2) The head of a municipality the corporation of which holds stock in any such company to the extent of one-tenth or more of the whole of the capital stock is *ex officio* a director of the company so long as the corporation continues to hold stock to that extent. R.S.O. 1970, c. 390, s. 63.

PART VII

COMMISSION FOR RAILWAYS, BUS TRANSPORTATION SYSTEMS AND TELEPHONES

Commission to construct and manage railways and telephones

63. The council of a municipal corporation that owns or operates or is about to establish,

(*a*) a railway, an electric railway, a street railway, an incline railway or a bus transportation system; or

(*b*) telephone systems or lines,

may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the work and the control and management of it to a commission, to be called "The Public Service Commission of the (*naming the municipality*)" or to an existing public utilities commission established under this Act, and if such a by-law is passed, the provisions of sections 34 and 37 to 47 apply with necessary modifications to the commission to which the construction, control and management of the work are entrusted and to the work. R.S.O. 1970, c. 390, s. 64.

PART VIII

MISCELLANEOUS

Certain provisions of R.S.O. 1980, c. 384 not affected

64. Nothing in this Act affects sections 94 to 102 of the *Power Corporation Act*, and they continue to apply to the cases to which they now apply. R.S.O. 1970, c. 390, s. 65; 1973, c. 57, s. 19.

Prohibition of sale of gas containing sulphuretted hydrogen

65.—(1) After they have been submitted to and approved of by the Lieutenant Governor in Council, by-laws may be passed by the councils of all municipalities to prohibit the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen.

Forfeiture of franchise for contravention of by-law

(2) If a company contravenes the provisions of any such by-law or after the passing of such by-law neglects or refuses to furnish a supply, sufficient for all public and private uses, of gas not containing sulphuretted hydrogen, any right, privilege or franchise that it possesses for the sale or distribution

of natural or manufactured gas within the municipality *ipso facto* comes to an end and is determined.

Application to Ontario Energy Board for declaration as to contravention

(3) The corporation may apply to the Ontario Energy Board for a declaration that the company has contravened the provisions of the by-law, or that, after the passing of the by-law, it has neglected or refused to supply gas not containing sulphuretted hydrogen, as provided by subsection (2), and the Board on proof to its satisfaction that the company has done so may make the declaration, and the fact of such contravention or neglect or refusal is thereby conclusively established.

Right of action to restrain sale

(4) After the passing of the by-law, the corporation also has the right to bring and maintain an action to restrain the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen.

Removal of mains, pipes

(5) Upon application by a municipal corporation to the Ontario Energy Board and upon proof of the sale or distribution of natural or manufactured gas containing sulphuretted hydrogen within the municipality after the passing of a by-law prohibiting the same, an order shall be made for the removal by the company so selling or distributing, of its conduits, mains, pipes and works from the municipality, but not including those used only for the purpose of transportation through the municipality to another municipality, and in default of such removal within the time limited by the order, then for the removal thereof by the corporation at the expense of the company.

Restoration of condition of highways

(6) Upon such removal, the company shall restore the highways to as good a condition as they were in prior to the removal and in default thereof within the time limited by the order of the Ontario Energy Board, the corporation may do so at the expense of the company, and the expense incurred by the corporation in such removal and restoration is recoverable in a court of competent jurisdiction.

Application of section

(7) This section applies to every company incorporated before or after the passing of this section and whether by special or general Act.

No action for forfeiture of franchise

(8) No action lies or is maintainable by a company against any municipal corporation for or by reason or on account of the forfeiture under this section of any right, privilege or franchise of the company in the municipality. R.S.O. 1970, c. 390, s. 66.

CHAPTER 424

Public Utilities Corporations Act

Interpretation

1. In this Act, "public utility" means any water works, gas works, electric heat, light or power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessaries or conveniences. R.S.O. 1970, c. 391, s. 1.

Forfeiture of rights by company passing out of jurisdiction of Province

2.—(1) Where the undertaking of a company operating a public utility incorporated under a general or special Act of the Legislature has been, since the 19th day of February, 1907, or hereafter is declared by the Parliament of Canada to be a work for the general advantage of Canada, or absorbed by or amalgamated with or controlled or operated by any other company whose undertaking is or has been declared a work for the general advantage of Canada, or which is not subject to the legislative control of Ontario, the Lieutenant Governor in Council may declare that all or any of the powers, rights, privileges and franchises conferred upon the first-mentioned company by letters patent or by any general or special Act of the Legislature shall be forfeited and thereupon all such powers, rights, privileges and franchises so declared to be forfeited cease and determine, and every municipal by-law passed and every agreement entered into with any municipal corporation authorizing the company to carry on business or granting to it any right, privilege or franchise also thereupon becomes void and is of no effect, and the company forfeits all claim to any bonus or other aid granted by any municipal corporation or by the Legislature.

Bonus debentures not affected

(2) Nothing in this section affects the validity of any debenture issued by a municipal corporation for payment of any such bonus in the hands of a *bona fide* holder for valuable consideration, nor the claim of any *bona fide* creditor of the company. R.S.O. 1970, c. 391, s. 2.

Approval of Lieut. Gov. in Council required to certain agreements

3.—(1) Notwithstanding anything in any Act, a municipal corporation shall not enter into any agreement with any such company or pass any by-law in relation to any public utility that has been declared to be a work for the general advantage of Canada, or that is not within the legislative

control of Ontario, until the Lieutenant Governor in Council has approved of the agreement or by-law, and every agreement entered into and by-law passed in contravention of this section is void and of no effect.

Idem

(2) The Lieutenant Governor in Council may, from time to time, in advance of such agreements or by-laws, approve of any class or description of such agreements or by-laws in regard to any corporation named in the order in council. R.S.O. 1970, c. 391, s. 3.

CHAPTER 425

Public Vehicles Act

1. In this Act, Interpretation

(*a*) "Board" means the Ontario Highway Transport Board;

(*b*) "bus" means a bus as defined in the *Highway Traffic Act*; R.S.O. 1980, c. 198

(*c*) "car pool vehicle" means a motor vehicle as defined in the *Highway Traffic Act*,

(i) with a seating capacity of not more than twelve persons,

(ii) while it is operated transporting no more than twelve commuters including the driver, none of whom pay for the transportation more frequently than on a weekly basis,

(iii) that is not used by any one driver to transport commuters for more than one round trip per day, and

(iv) the owner, or if the vehicle is subject to a lease, the lessee, of which does not own or lease another car pool vehicle unless he is the employer of a majority of the commuters transported in the vehicles,

but does not include a motor vehicle while being operated by or under contract with a school board or other authority in charge of a school for the transportation of children to or from school;

(*d*) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;

(*e*) "highway" means a highway as defined in the *Highway Traffic Act*;

(*f*) "Minister" means the Minister of Transportation and Communications;

(*g*) "Ministry" means the Ministry of Transportation and Communications;

(*h*) "officer of the Ministry" means an officer of the Ministry designated, in writing, by the Minister to assist in the enforcement of this Act;

(*i*) "operating licence" means a public vehicle operating licence issued under this Act;

(*j*) "prescribed" means prescribed by the regulations;

(*k*) "public vehicle" means a motor vehicle operated on a highway by, for or on behalf of any person for the transportation for compensation of passengers, or passengers and express freight that might be carried in a passenger vehicle, but does not include the cars of electric or steam railways running only upon rails, taxicabs, car pool vehicles, nor motor vehicles operated solely within the corporate limits of one urban municipality;

(*l*) "regulations" means the regulations made under this Act;

R.S.O. 1980, c. 198

(*m*) "taxicab" means a motor vehicle as defined in the *Highway Traffic Act*, other than a car pool vehicle, having a seating capacity of not more than six persons, exclusive of the driver, hired for one specific trip for the transportation exclusively of one person or group of persons, one fare or charge only being collected or made for the trip;

(*n*) "toll" means any fee or rate charged, levied or collected by any person for the carriage of passengers and express freight by a public vehicle;

(*o*) "vehicle licence" means a public vehicle licence issued under this Act. R.S.O. 1970, c. 392, s. 1; 1971, c. 50, s. 74 (1); 1972, c. 1, ss. 1, 100 (2); 1977, c. 32, s. 1; 1980, c. 46, s. 1.

Operating licence required

2.—(1) Notwithstanding the provisions of any private Act, no person shall operate a public vehicle,

(*a*) except under an operating licence; or

(*b*) in contravention of the terms and conditions of the operating licence.

Arranging transportation

(2) No person shall arrange or offer to arrange the transportation of passengers by means of a public vehicle operated by another person unless that other person is the holder of an operating licence authorizing him to perform the transportation. 1980, c. 46, s. 2, *part*.

Transporting in leased bus

3.—(1) No person, while transporting passengers therein for compensation or otherwise, shall operate a leased bus that has a designed seating capacity for more than thirty-five passengers unless,

(*a*) the bus is leased to him for a term of not less than twenty-two days under a lease that is not terminable within the first twenty-two days of its term; or

(*b*) the bus is operated solely within the corporate limits of one urban municipality.

Leased bus

(2) No person shall lease out a bus that has a designed seating capacity for more than thirty-five passengers under a lease that has a term of less than twenty-two days or is terminable within the first twenty-two days of its term unless he obtains from the lessee a declaration in the prescribed form that the bus is to be operated solely within the corporate limits of one urban municipality.

Interpretation

(3) The chartering of a bus and driver by the holder of an operating licence from another holder of an operating licence does not constitute the leasing of a bus for the purposes of this section. 1980, c. 46, s. 2, *part*.

Offence

4.—(1) Every person who contravenes subsection 2 (1) or any provision of section 3 is guilty of an offence and on conviction is liable,

(*a*) for a first offence, to a fine of not less than $250 and not more than $5,000; and

(*b*) for each subsequent offence, to a fine of not less than $500 and not more than $5,000.

Subsequent offence within five-year period

(2) Where a person who has previously been convicted of an offence mentioned in subsection (1) is convicted of the same or any other offence mentioned in subsection (1) within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause (1) (*b*). 1980, c. 46, s. 2, *part*.

Operating licence, issue

5.—(1) The Minister may issue an operating licence in accordance with a certificate of necessity and convenience issued by the Board under section 6.

rights under

(2) An operating licence authorizes the licensee to conduct upon a highway by means of a public vehicle the business of a carrier of passengers or of passengers and express freight, in accordance with this Act and the regulations and the terms and conditions of the licence.

Discontinuance of scheduled service

(3) The holder of an operating licence shall not discontinue any scheduled service authorized under his licence until after giving the Minister ten days written notice of his intention to do so.

Failure to provide scheduled service

(4) Where the holder of an operating licence fails to provide a scheduled service authorized by his licence for more than twenty-four hours, he shall give,

(*a*) a written report to the Minister; and

(*b*) a notice to the public in the area affected,

indicating the cause of the failure and its probable duration.

Notice

(5) A notice to the public under subsection (4) shall be given by publication in a newspaper published in the area affected and by posting it at the scheduled stopping places on the highway in respect of which the service has not been provided. 1971, c. 50, s. 74 (3), *part*.

Special authority

(6) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set out in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc., continues to apply

(7) The provisions of this Act, except sections 6 and 18, and the regulations and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation by Minister

(8) The Minister may delegate to a member or members of the Board his powers under subsection (6). 1980, c. 46, s. 3.

Approval by Board

6.—(1) The Minister shall not issue an operating licence to any person unless the Board, upon the application of that person on the form provided therefor by the Ministry has,

after a hearing of the application as required by the *Ontario Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister. 1971, c. 50, s. 74 (3), *part*; 1980, c. 46, s. 4 (1). R.S.O. 1980, c. 338

Certificate

(2) The Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,

(*a*) prescribe terms and conditions to govern the transportation of passengers or of passengers and express freight by public vehicles pursuant to the licence;

(*b*) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public vehicles and with respect to any highway or highways or portions thereof described in the certificate; and

(*c*) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event. 1971, c. 50, s. 74 (3), *part*; 1980, c. 46, s. 4 (2).

Approval for renewal

(3) Notwithstanding subsection (1), the approval of the Board is not required for renewal of a licence unless the Minister refers the application for renewal to the Board, in which case subsection (1) applies. 1971, c. 50, s. 74 (3), *part*;

Where certificate revoked or amended

(4) Where a certificate issued by the Board under this section is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address. 1980, c. 46, s. 4 (3).

Transfer of operating licence

7.—(1) No operating licence shall be transferred without the approval, in writing, of the Minister obtained on application on the form provided therefor by the Ministry and payment of the prescribed fee. 1971, c. 50, s. 74 (3), *part*; 1980, c. 46, s. 5 (1).

Application for approval, hearing

(2) The Minister shall refer an application for approval of the transfer of an operating licence to the Board and the Board shall hold a hearing as required by the *Ontario Highway Transport Board Act* and shall report to the Minister whether or not the public necessity and convenience served by the

transportation service carried on under the licence will be prejudiced by the transfer of the licence. 1971, c. 50, s. 74 (3), *part*; 1980, c. 46, s. 5 (2).

Parties

(3) The Minister, the proposed transferor and transferee and such other persons as the Board specifies are parties to the proceedings under this section.

Decision of Minister

(4) The Minister shall consider a report made by the Board to him under this section and may thereafter approve or refuse to approve the transfer and the Minister shall give reasons for his decision to the other parties to the proceedings.

Issue or transfer of shares of corporation

(5) The Minister may require the directors of a corporation that is the holder of an operating licence to report to the Board any issue or transfer of shares of its capital stock and where the Board finds, after a hearing, that the number of shares so issued or transferred affects the *de facto* control of the operations of the corporation such issue or transfer shall be deemed to constitute a transfer of all operating licences held by such corporation and, unless the transfer is approved, such operating licences shall terminate.

Review of terms of licence

(6) The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed, having regard to the requirements of public necessity and convenience, and the Board shall, after a hearing of the reference as required by the *Ontario Highway Transport Board Act*, report thereon to the Minister, and the Minister may confirm, amend or cancel the terms and conditions of the licence and shall give reasons for his decision to the licensee. 1971, c. 50, s. 74 (3), *part*.

R.S.O. 1980, c. 338

Expiry of licence

8.—(1) An operating licence for which a day for expiry has not been fixed expires on the 1st day of July in each year unless on or before that day the licensee has applied for and acquired vehicle licences for the vehicles operated pursuant to the operating licence for the current year. 1971, c. 50, s. 74 (3), *part*; 1980, c. 46, s. 6 (1).

Operating licence renewed on acquisition of vehicle licences

(2) Where the holder of an operating licence has acquired vehicle licences in accordance with subsection (1), his operating licence shall be deemed to be renewed. 1971, c. 50, s. 74 (3), *part*.

Where subss. (1, 2) do not apply

(3) Subsections (1) and (2) do not apply to an operating licence that by its terms expires at the end of a specified term, upon a

specified day or upon the occurrence of a specified event. 1980, c. 46, s. 6 (2).

Municipal licence and fares, when not applicable

9.—(1) Subject to subsections (2) and (3), a person holding an operating licence may operate his vehicle in and through any municipality covered by the licence without holding a licence or complying with the rates or fares prescribed under any by-law of any such municipality.

when applicable

(2) Where such a person takes on passengers or express freight within the limits of an urban municipality and discharges such passengers or express freight within the limits of that municipality, he may be required to obtain a licence under a by-law of that municipality and shall, as to such passengers and express freight, comply with any tariff of fares or rates established by by-law of that municipality.

Designation of streets

(3) The council of any such municipality may, with the approval of the Minister, designate by by-law the streets within the municipality over which the person holding the licence may operate his vehicle. R.S.O. 1970, c. 392, s. 8.

Payment of annual charge to city

10. The council of any city may pass a by-law requiring a person holding an operating licence who operates a public vehicle over a route partly within and partly without the limits of the city to pay to the city a fee or charge not being in the nature of a licence fee, and the by-law shall not come into effect until approved by the Minister who shall fix the fee to be charged. R.S.O. 1970, c. 392, s. 9.

Suspension or cancellation of operating licence

11. Subject to section 17, the Minister may suspend or cancel an operating licence,

(*a*) where the licensee fails to begin operations as a carrier in accordance with the licence within thirty days after the issue of the licence or within such further period as is specified in the licence;

(*b*) where the licensee fails for a continuous period of thirty days to carry on operations as a carrier in accordance with the licence;

(*c*) where the past conduct of the applicant or licensee, or, where the applicant or licensee is a corporation, of its officers or directors, affords reasonable grounds for belief that the transportation service will not be operated

in accordance with the law and with honesty and integrity;

(*d*) where the licensee is financially incapable of providing or continuing to provide transportation services in accordance with this Act and the regulations or the terms and conditions of the licence or of meeting his financial responsibilities to persons using such services; or

R.S.O. 1980, c. 198

(*e*) where the licensee or any person under his control and direction contravenes this Act or the *Highway Traffic Act* or the regulations hereunder or thereunder or the terms and conditions of the licence and such contravention affords reasonable grounds for believing that the business of a carrier will not be carried on pursuant to the licence in accordance with the requirements of such Acts or regulations or such terms and conditions. 1971, c. 50, s. 74 (4), *part*; 1980, c. 46, s. 7.

Vehicle licence, required

12. Notwithstanding the provisions of any private Act, no person shall operate a public vehicle unless the vehicle is licensed as a public vehicle under this Act. 1971, c. 50, s. 74 (4), *part*.

Issue to holder of operating licence

13.—(1) Subject to subsection (2) and section 16, the holder of an operating licence is entitled, upon application to the Minister on the form provided therefor by the Ministry, to be issued by the Minister vehicle licences for public vehicles for operation pursuant to his operating licence. 1971, c. 50, s. 74 (4), *part*; 1980, c. 46, s. 8 (1).

Idem

(2) No vehicle licence shall be issued for a public vehicle except to the holder of an operating licence who,

(*a*) is registered as the owner of the vehicle under the *Highway Traffic Act*; or

(*b*) has entered into an agreement for the lease of the vehicle in accordance with this Act and the regulations. 1980, c. 46, s. 8 (2).

Rights under vehicle licence

14.—(1) A vehicle licence authorizes the holder to operate the vehicle for which it is issued as a public vehicle on the highways designated in his operating licence or on charter or special trips in accordance with the regulations.

Expiry of licence

(2) A vehicle licence expires on the 31st day of March in each year.

Transfer

(3) Where a vehicle for which a vehicle licence was issued is sold to the holder of an operating licence, the Minister may transfer the vehicle licence and licence plate for the vehicle to such holder, but no vehicle licence may be transferred in any other case. 1971, c. 50, s. 74 (4), *part*.

Number of passengers and tonnage of freight

15.—(1) The Minister may, in a vehicle licence, fix the number of passengers or tonnage of express freight, or both, that the vehicle may carry and, subject to subsection 23 (1), no vehicle shall at any time carry more passengers or more tonnage than is fixed by the licence issued with respect to the vehicle. 1971, c. 50, s. 74 (4), *part*.

Licence plate

(2) Every public vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous place, a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year. 1971, c. 50, s. 74 (4), *part*; 1980, c. 46, s. 9.

Refusal to issue or cancellation of vehicle licence

16. Subject to section 17, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, eligible to be issued a licence under subsection 13 (2) or if the vehicle does not comply with the requirements of this Act or the *Highway Traffic Act* or the regulations hereunder or thereunder. 1971, c. 50, s. 74 (4), *part*; 1980, c. 46, s. 10.

R.S.O. 1980, c. 198

Notice of proposal to cancel, etc., hearing

17.—(1) Where the Minister proposes,

(*a*) to suspend or cancel an operating licence under section 11; or

(*b*) to refuse to issue or to cancel a vehicle licence under section 16,

he shall cause notice of his proposal together with written reasons therefor to be served on the applicant or licensee informing him that he has a right to a hearing by the Board if he mails or delivers, within fifteen days after service on him of the notice from the Minister, notice in writing requiring a hearing to the Minister and the Board, and the applicant or licensee may so require such a hearing.

Where hearing required or not required

(2) Where an applicant or licensee,

(*a*) does not give notice in accordance with subsection (1) requiring a hearing by the Board, the Minister may forthwith refuse to issue or suspend or cancel his licence; or

(*b*) gives notice in accordance with subsection (1) requiring a hearing by the Board, the Minister shall refer the matter to the Board for a hearing.

Service of notice

(3) The Minister may cause a notice under subsection (1) to be served personally or by registered mail addressed to the applicant or licensee at his address last known to the Minister and, where notice is served by registered mail, the notice shall be presumed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension time for giving notice by applicant

(4) The Board, on application of an applicant or licensee, may extend the time for giving notice requiring a hearing under subsection (1), either before or after expiration of the time fixed therein, where the Board is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as the Board considers proper consequent upon the extension.

Parties to hearing

(5) The Minister, the applicant or licensee and such other persons as the Board may specify are parties to a hearing under this section.

Notice of hearing

(6) Notice of a hearing under this section shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of his licence.

Examination of documentary evidence

(7) The Minister shall afford to the applicant or licensee, or his representative, an opportunity to examine before the hearing any written or documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing.

Report to Minister

(8) The Board shall, after a hearing under this section, make a report to the Minister which shall set out its findings of fact and conclusions of law and its recommendations as to the issue, suspension or cancellation of the licence to which it relates.

Decision of Minister

(9) After considering a report of the Board under this section, the Minister may carry out the proposal or refrain from carrying out the proposal to which it relates and shall give reasons for his decision to the applicant or licensee. 1971, c. 50, s. 74 (4), *part*.

Tolls

18.—(1) Subject to section 19, no tolls shall be charged by the licensee for services rendered pursuant to his operating licence until a tariff thereof has been filed with and approved by the Minister as being fair and reasonable, or otherwise than in accordance with such tariff.

Revised tariff of tolls

(2) Subject to section 19, where a tariff of tolls has been approved by the Minister under subsection (1), the Minister may at any time revise such tariff and make such changes therein as are fair and reasonable and thereafter no tolls shall be charged except in accordance with the revised tariff. 1971, c. 50, s. 74 (5), *part*.

Reference to Board

19.—(1) Before refusing to approve a tariff of tolls filed with him or before revising a tariff of tolls without the consent of the licensee who filed the tariff, the Minister shall refer the matter to the Board for a hearing and report. 1971, c. 50, s. 74 (5), *part*.

Hearing

R.S.O. 1980, c. 338

(2) Pursuant to a reference under this section, the Board shall hold a hearing as required by the *Ontario Highway Transport Board Act* to inquire whether the tariff of tolls should be approved as filed or approved with amendments or revised. 1971, c. 50, s. 74 (5), *part*; 1980, c. 46, s. 11.

Parties

(3) The Minister, the licensee and such other persons as the Board may specify are parties to a hearing under this section.

Report to Minister

(4) The Board shall at the conclusion of a hearing under this section make a report to the Minister, which shall set out a summary of the representations of the parties, its findings of fact and any other information that it considers relevant to determining fair and reasonable rates.

Decision of Minister

(5) After considering the report of the Board under this section, the Minister may approve the tariff of tolls filed with him either as the tariff was filed or as amended or may revise the tariff of tolls to which the report relates and shall give written notice of his decision to the licensee stating the reasons therefor. 1971, c. 50, s. 74 (5), *part*.

Prohibition as to drinking

20. No driver of a public vehicle carrying passengers shall drink any intoxicating liquor during the time he is on duty, or at any time use intoxicating liquor to excess. R.S.O. 1970, c. 392, s. 13; 1980, c. 46, s. 12.

Smoking

21. No driver of a public vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance while driving the vehicle. R.S.O. 1970, c. 392, s. 14; 1980, c. 46, s. 13.

Right of person to be transported

22. Subject to the conditions of the operating licence, no driver or operator of any public vehicle shall refuse to carry any person offering himself at any regular stopping place for carriage and who tenders the regular fare to any regular stopping place on the route of the vehicle or between the termini thereof, unless at the time of such offer the seats of the vehicle are fully occupied, but the driver or operator of a public vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane or obscene language. R.S.O. 1970, c. 392, s. 15.

Passengers not to be allowed on running board, etc.

23.—(1) No driver or operator shall allow passengers to ride on the fenders or any other part of a public vehicle other than the seats thereof, except that a vehicle may carry as standing passengers in the aisles thereof not more than one-third the number of persons for which seats are provided.

Restrictions as to seating

(2) No driver or operator of a public vehicle shall permit or allow on the front seat of the vehicle more passengers than the seat is designed to carry, exclusive of the driver, or permit or allow any passenger to occupy any other portion of the vehicle forward of the back of the driver's seat.

Beside driver

(3) No passenger shall be allowed to sit on the front seat to the left of the driver of a left-hand drive motor vehicle, or to the right of the driver of a right-hand drive motor vehicle. R.S.O. 1970, c. 392, s. 16.

Trailers prohibited

24. Except when specially authorized by the Minister, no person shall operate a public vehicle with any trailer or other vehicle attached thereto, but where a vehicle becomes disabled on a trip and is unable to proceed on its own power, the vehicle may be towed to the nearest point where repair facilities are available. R.S.O. 1970, c. 392, s. 17.

Luggage

25. A public vehicle shall not carry or transport any luggage, baggage, package, trunk, crate or other load that extends beyond the body limits of the vehicle. R.S.O. 1970, c. 392, s. 18.

Exits

26.—(1) Every public vehicle shall have at least two doors or exits, one of which, to be used only in an

emergency, shall be at the rear of the vehicle or near the rear on the left side of the vehicle.

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing exits to be used only in an emergency in lieu of those required in subsection (1). R.S.O. 1970, c. 392, s. 19.

Insurance

27. Every person licensed under this Act shall provide or effect and carry such insurance or bond as is prescribed by the regulations. R.S.O. 1970, c. 392, s. 20.

Certificate of insurance

28.—(1) Every insurer who has issued a policy of insurance in accordance with section 27 shall issue a certificate thereof which shall be filed with the Minister.

Effect of certificate

(2) Such certificate shall be deemed to be a conclusive admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate.

Notice of cancellation or expiry of insurance

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy for which a certificate has been issued at least thirty days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry, the policy remains in full force and effect. R.S.O. 1970, c. 392, s. 21.

Cancellation or expiry of bond

29. A bond issued in accordance with section 27 shall not be cancelled or expire except after thirty days written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. R.S.O. 1970, c. 392, s. 22.

Stopping vehicle for examination

30.—(1) A member of the Ontario Provincial Police Force or an officer of the Ministry may, for the purpose of an examination in accordance with subsection (2), direct, by signals or otherwise, the driver of any bus that is being driven on a highway to stop, and the driver upon being so directed shall stop the vehicle.

Examination of bus

(2) A member of the Ontario Provincial Police Force or an officer of the Ministry may at any time examine any bus, its contents and equipment for the purpose of ascertaining whether this Act and the regulations are being complied with in the operation of the bus, and the driver or other person in control of the bus shall assist in the examination of the bus, its contents and equipment.

Production of lease

(3) Where a leased bus is being operated on a highway for the purpose of transporting passengers, the lease, or a true copy

thereof, shall be carried by the driver of the bus or placed in some readily accessible position in the bus and shall be surrendered for reasonable inspection upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry.

Examination of records, etc., of holder of operating licence

(4) An officer of the Ministry may at any time examine all books, records and documents of the holder of an operating licence relating to the business of operating public vehicles for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder. 1980, c. 46, s. 14.

Matters confidential

31. Each person employed in the administration of this Act, including any person making an examination under section 30, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment or on an examination under section 30 and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations; or

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates. 1971, c. 50, s. 74 (6), *part*.

Offences

32.—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than $150 and not more than $1,500.

Idem

(2) Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this Act or by the regulations or by the Ministry is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $200 or to imprisonment for a term of not more than thirty days, or to both. 1980, c. 46, s. 15.

Consent to prosecutions

33. No prosecution shall be instituted under this Act without the consent of a member of the Ontario Provincial Police Force or of an officer of the Ministry designated

by the Minister to assist in the enforcement of this Act. R.S.O. 1970, c. 392, s. 24; 1972, c. 1, s. 1.

Regulations

34. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing forms for the purposes of this Act and providing for their use;

(*b*) governing the application for a licence or for a renewal or transfer of a licence and prescribing classes of licences;

(*c*) prescribing terms and conditions to which licences shall be subject;

(*d*) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons licensed under this Act;

(*e*) prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;

(*f*) governing the filing of bonds and certificates of insurance;

(*g*) respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;

(*h*) governing the material and information to be filed with tariffs of tolls filed under this Act;

(*i*) prescribing, regulating and limiting the hours of labour of drivers of public vehicles;

(*j*) prescribing the qualifications of drivers of public vehicles;

(*k*) prescribing the condition in which public vehicles shall be kept, and prescribing the equipment to be carried by public vehicles and the condition and location in which the equipment shall be kept;

(*l*) defining chartered trips, special trips, scheduled services and school buses, and prescribing special terms and conditions with respect to such trips or buses and regulating such trips or services;

(*m*) providing for the delegation to an officer of the Ministry of such of the powers and duties of the Minister as may be considered necessary;

(*n*) providing for the payment of fees for copies of or access to any writing, paper or document filed in the Ministry under this Act or the regulations or any statement containing information from the records of the Ministry and prescribing the amount of such fees;

(*o*) prescribing terms that shall be deemed to be incorporated into all leases referred to in sections 3 and 13. R.S.O. 1970, c. 392, s. 25; 1971, c. 50, s. 74 (7, 8); 1972, c. 1, s. 1; 1980, c. 46, s. 16.

Policy statements

35.—(1) The Lieutenant Governor in Council may by order from time to time issue policy statements setting out matters to be considered by the Board when determining questions of public necessity and convenience and the Board shall take such matters into consideration together with such other matters as the Board considers appropriate where the hearing or review is commenced after the policy statement is gazetted. 1978, c. 23, s. 1, *part*; 1980, c. 46, s. 17.

Publication

(2) An order made under subsection (1) shall be published in *The Ontario Gazette*. 1978, c. 23, s. 1, *part*.

Investigation directed by Minister

36.—(1) The Minister may direct the Board to examine and investigate such matters relating to transportation policy as are referred to it by the Minister and the Board shall report thereon to the Minister.

Hearings by Board

(2) For the purposes of subsection (1), the Board may hold such hearings as it considers necessary. 1978, c. 23, s. 1, *part*.

CHAPTER 426

Public Works Protection Act

1. In this Act, Interpretation

(*a*) "guard" means a guard appointed under this Act;

(*b*) "highway" means a common or public highway or a part thereof, and includes any street, bridge and any other structure incidental thereto and any part thereof;

(*c*) "public work" includes,

(i) any railway, canal, highway, bridge, power works including all property used for the generation, transformation, transmission, distribution or supply of hydraulic or electrical power, gas works, water works, public utility or other work, owned, operated or carried on by the Government of Ontario or by any board or commission thereof, or by any municipal corporation, public utility commission or by private enterprises,

(ii) any provincial and any municipal public building, and

(iii) any other building, place or work designated a public work by the Lieutenant Governor in Council. R.S.O. 1970, c. 395, s. 1.

2.—(1) For the purpose of protecting a public work, guards may be appointed by, Guards, appointment

(*a*) the Solicitor General;

(*b*) the Commissioner of the Ontario Provincial Police Force;

(*c*) any inspector of the Ontario Provincial Police Force;

(*d*) the head or deputy head of the municipal council or the chief of police of the municipality in which the

public work is located, or the person acting in the place or stead of the head or deputy head;

(*e*) the chairman or other person who is the head of a board, commission or other body owning or having charge of the public work, or the person acting in the place or stead of the chairman or other person. R.S.O. 1970, c. 395, s. 2 (1); 1972, c. 1, s. 99 (1).

Powers of guard

(2) Every person appointed as a guard under this section has for the purposes of this Act the powers of a peace officer. R.S.O. 1970, c. 395, s. 2 (2).

Duties of guard

(3) Subject to the regulations and to any special direction of the Solicitor General or the Commissioner of the Ontario Provincial Police Force, every guard shall obey all directions of the person appointing him, any inspector of the Ontario Provincial Police Force, the chief of police of the municipality in which is located the public work that he is protecting, and the person who is in charge of the protecting of the public work. R.S.O. 1970, c. 395, s. 2 (3); 1972, c. 1, s. 99 (2).

Breach of duty of guard

(4) Every guard who,

(*a*) neglects or refuses to obey a direction that he is required to obey under subsection (3);

(*b*) fails in any manner to carry out his duties as guard;

(*c*) leaves the location to which he is assigned as guard or ceases to act as guard without leave of any of the persons mentioned in subsection (3); or

(*d*) otherwise conducts himself in a manner not consistent with his duties as guard,

is guilty of an offence and on conviction is liable to a fine of not more than $100 or to imprisonment for a term of not more than two months, or to both. R.S.O. 1970, c. 395, s. 2 (4).

Powers of guard or peace officer

3. A guard or peace officer,

(*a*) may require any person entering or attempting to enter any public work or any approach thereto to furnish his name and address, to identify himself and to state the purpose for which he desires to enter the public work, in writing or otherwise;

(*b*) may search, without warrant, any person entering or attempting to enter a public work or a vehicle in the charge or under the control of any such person or which has recently been or is suspected of having been in the charge or under the control of any such person or in which any such person is a passenger; and

(*c*) may refuse permission to any person to enter a public work and use such force as is necessary to prevent any such person from so entering. R.S.O. 1970, c. 395, s. 3.

Statement under oath to be conclusive evidence

4. For the purposes of this Act, the statement under oath of an officer or employee of the government, board, commission, municipal or other corporation or other person owning, operating or having control of a public work, as to the boundaries of the public work is conclusive evidence thereof. R.S.O. 1970, c. 395, s. 4.

Refusal to obey guard, etc.

5.—(1) Every person who neglects or refuses to comply with a request or direction made under this Act by a guard or peace officer, and every person found upon a public work or any approach thereto without lawful authority, the proof whereof lies on him, is guilty of an offence and on conviction is liable to a fine of not more than $100 or to imprisonment for a term of not more than two months, or to both.

Arrest

(2) A guard or peace officer may arrest, without warrant, any person who neglects or refuses to comply with a request or direction of a guard or peace officer, or who is found upon or attempting to enter a public work without lawful authority. R.S.O. 1970, c. 395, s. 5.

Regulations

6. The Lieutenant Governor in Council may make regulations,

(*a*) providing for the organization, co-ordination, supervision, discipline and control of guards;

(*b*) defining the areas that constitute approaches to public works, either generally or with regard to a particular public work;

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 395, s. 6.

CHAPTER 427

Quieting Titles Act

Owners, etc., in fee simple may obtain judicial investigation of title

1. An owner of an estate in fee simple in land or a trustee for the sale of the fee simple is entitled to have his title judicially investigated and the validity thereof ascertained and declared, whether he has the legal estate or not, and whether his title is or is not subject to a charge or encumbrance. R.S.O. 1970, c. 396, s. 1.

In case of any other estate; investigation to be discretionary with the judge

2. Any other person who has an estate or interest in land may apply for the investigation of his title and a declaration of the validity thereof, but it is in the discretion of the judge before whom the proceedings are taken to grant or refuse the application and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the judge in exercising such discretion is subject to appeal. R.S.O. 1970, c. 396, s. 2.

Applications to quiet title to Crown lands

3. The Attorney General for Canada or the Attorney General for Ontario may apply for an investigation of the title of the Crown to any land and a declaration of the validity thereof, and the application may be made by information instead of petition, but in other respects the practice and procedure shall be the same as in ordinary cases. R.S.O. 1970, c. 396, s. 3; 1972, c. 1, s. 9 (7).

Form of application and to whom made

4. Every application shall be made to the Supreme Court or a judge thereof and, subject to section 3, shall be by petition in Form 1. R.S.O. 1970, c. 396, s. 4.

How the application must be supported:

5. The application shall be supported by,

title deeds

(*a*) the title deeds, if any, and evidences of title in the possession or power of the applicant;

registered instruments

(*b*) certified copies of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, up to the time of the granting of the certificate of title, except mortgages of which discharges have been registered more than ten years prior to the date of the application and the discharges of such mortgages;

registrar's certificate

(c) an abstract of the title certified by the land registrar of the registry division in which the land lies, unless the abstract is dispensed with in whole or in part;

statement of facts

(d) a concise statement of such facts as are necessary to make out the title that do not appear in the produced documents, but no abstract of produced documents shall be required except on special grounds;

proof of facts

(e) proof of any fact that is required to be proved in order to make out the title, and that is not established by the produced documents, unless the judge dispenses with such proof until a future stage of the investigation;

affidavit and certificate of counsel, etc.

(f) an affidavit or deposition by the person whose title is to be investigated and a certificate of his counsel or solicitor, to the effect mentioned in section 7, unless the judge, for special reason, dispenses therewith;

schedule of particulars produced

(g) a schedule of the particulars produced under this section. R.S.O. 1970, c. 396, s. 5.

What the affidavit or deposition of the applicant must state

6.—(1) The affidavit or deposition of the person whose title is to be investigated shall state that to the best of his knowledge and belief he is the owner of the estate or interest claimed by the petitioner, subject only to the charges and encumbrances set forth in the petition or in a schedule thereto, or that there is no charge or encumbrance affecting the land, that the deeds and evidences of title that he produces, and of which a list is contained in the schedule produced under section 5, are all the title deeds and evidences of title relating to the land in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein, or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any except what he sets forth.

As to petitioner's possession and other material facts

(2) The affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title, and shall state that to the best of the deponent's knowledge, information and belief, the affidavit or deposition and the other papers produced therewith fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings that affect the title or a part thereof or give any right as against him.

In certain cases it may be dispensed with or made by another person

(3) The affidavit or deposition may be dispensed with or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by one person, and as to part by another, in the discretion of the judge to whom the application is made, and in such case the affidavit shall be modified accordingly. R.S.O. 1970, c. 396, s. 6.

What the certificate of counsel or solicitor must state

7. The certificate of the counsel or solicitor shall state that he has investigated the title and believes the petitioner to be the owner of the estate that he claims in the land, subject only to any charge or encumbrance set forth in the petition or in the schedule thereto, or that he so believes, subject to any condition, qualification or exemption set forth in the certificate, and that he has conferred with the deponent on the subject of the various matters set forth in the affidavit or deposition referred to in sections 5 and 6 and believes the affidavit or deposition to be true. R.S.O. 1970, c. 396, s. 7.

On what evidence judge may proceed

8.—(1) The judge in investigating the title may receive and act upon any evidence that is received by the Supreme Court on a question of title, and any evidence that the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether the evidence is or is not receivable or sufficient in point of strict law or according to the practice of conveyancers, if the evidence satisfies the judge of the truth of the facts intended to be established thereby.

Idem
R.S.O. 1980, c. 520

(2) It is not necessary to produce any evidence that by the *Vendors and Purchasers Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents or instruments, unless the judge otherwise directs.

Forms of proof

(3) The proof may be by affidavit or certificate or may be given orally or in any other manner or form satisfactory to the judge. R.S.O. 1970, c. 396, s. 8.

Taxes must have been paid except for current year

9. Before a certificate of title is granted, satisfactory evidence shall be given by certificate, affidavit or otherwise that all taxes, rates and assessments for which the land is liable have been paid, or that all, except those for the current year, have been paid, and by the production of a certificate from the Minister of Revenue that all claims for succession duty in respect of the land to be included in the certificate have been satisfied. R.S.O. 1970, c. 396, s. 9.

Further proof if judge not satisfied

10. If the judge is not satisfied with the evidence of title produced in the first instance, he shall give a reasonable opportunity to produce further evidence or to remove defects in the evidence produced. R.S.O. 1970, c. 396, s. 10.

Judge to order notice to be published

11.—(1) Except as hereinafter provided, before a certificate of title is granted or a conveyance is made under this Act, the judge shall direct to be published in *The Ontario Gazette*, and, if he sees fit, in one or more newspapers, and in such form and for such period as he considers expedient, a notice either of the application having been made, or of the order or decision of the judge thereon, and the notice shall state the time within which adverse claims may be filed, and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of the notice or such other period as the judge may appoint.

Notice of application where land is valued at not more than $3,000

(2) Where the value of the land is proved to the satisfaction of the judge to be not more than $3,000, he may dispense with the publication of the notice and in lieu thereof may direct that for such period as he thinks fit a printed or typewritten notice of the application, or of the order or decision of the judge thereon, be posted up in one or more conspicuous places on the land and in such other place, if any, as he thinks fit, and the certificate or conveyance shall not be signed or executed until the period limited by the notice for filing adverse claims has expired. R.S.O. 1970, c. 396, s. 11.

Judge may grant certificate without further notice

12. Where the judge is satisfied respecting the title and considers that the certificate of title can safely be granted or the conveyance can safely be executed without any other notice of application than the published or posted notice, he may grant the certificate or direct the execution of the conveyance. R.S.O. 1970, c. 396, s. 12.

Notice to adverse claimant

13. Where it appears that there is a person who may have a claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the judge shall direct such notice as he considers necessary to be mailed to or served on that person, his agent or solicitor. R.S.O. 1970, c. 396, s. 13.

Appointment of guardian *ad litem*

14.—(1) Where it appears that any persons who will become the heirs of a living person or that any person not *in esse* may be interested in opposing the claim of the petitioners, the judge may appoint a guardian *ad litem* to represent them and they are bound by the adjudication.

(2) The judge may order that the costs of the guardian *ad litem* be paid by the petitioner. Costs

(3) Unless the judge otherwise directs, the Official Guardian shall be appointed guardian *ad litem*. R.S.O. 1970, c. 396, s. 14. Who may be guardian

15. Before granting the certificate or directing the execution of the conveyance, the judge may require any further publication to take place or any other notice to be mailed or served that he considers necessary. R.S.O. 1970, c. 396, s. 15. Further publication or service of notice

16.—(1) A person having an adverse claim or a claim not recognized in the petition may at any time before the certificate is granted or the conveyance is executed, file and serve on the petitioner, his solicitor or agent, a statement of his claim in Form 2. Adverse claimants to file statements

(2) The claim shall be verified by an affidavit to be filed therewith. R.S.O. 1970, c. 396, s. 16. Verification

17. In case of a contest, the judge may either decide the question of title on the evidence before him, or may refer the question or any matter involved therein to the Court of Appeal, or may direct any mode of investigation that he considers expedient, and may defer granting the certificate or directing the execution of the conveyance. R.S.O. 1970, c. 396, s. 17. In case of contest, judge may decide or refer the case

18. The judge may at any stage of the proceeding order security for costs to be given by the petitioner or by any person making an adverse claim. R.S.O. 1970, c. 396, s. 18. Security for costs

19. The judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any party to any proceeding, and may give directions as to the fund out of which any costs shall be paid. R.S.O. 1970, c. 396, s. 19. Payment of costs

20. The petitioner may by leave of the judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by an adverse claimant. R.S.O. 1970, c. 396, s. 20. Withdrawal of application

21. Subject to the rules of court, the judge may refer a petition or any question arising in the course of any proceeding thereon to any referee of titles or other officer of the court, or to counsel named by the judge, who shall proceed as the judge himself should do if the reference had not been made, and has all the powers of the judge except the power to grant the certificate or to direct the execution of the conveyance. R.S.O. 1970, c. 396, s. 21. Petition may be referred to referee or counsel

Claims of title to be presumed to be made with certain exceptions

22.—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications unless the petition expressly states the contrary:

1. The reservations, if any, contained in the original grant from the Crown.

2. Any municipal charges, rates or assessments heretofore imposed for local improvements and not yet due and payable.

3. Any title or lien that, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land.

4. Any lease or agreement for a lease for a period yet to run, not exceeding three years, where there is actual occupation under it.

5. Any public highway, right of way, watercourse and right of water, and other easement.

6. Any claim for succession duty. R.S.O. 1970, c. 396, s. 22 (1), *revised*.

But claim may be without exceptions

(2) If the petitioner desires the certificate to declare the title to be free from such exceptions or qualifications, or any of them, the petition shall so state, and the investigation shall proceed accordingly, but this subsection does not apply to the exception or qualification as to a public highway. R.S.O. 1970, c. 396, s. 22 (2).

One certificate or several

23. The judge may give one certificate of title comprising all the land mentioned in the petition or may give separate certificates as to separate parts of the land. R.S.O. 1970, c. 396, s. 23.

Form of certificate

24. The certificate of title shall be in Form 3 and shall be under the seal of the court and signed by a judge and, where the proceedings on the petition are conducted in Toronto, by the Referee of Titles and in other cases by the Inspector of Titles and shall also be signed by the Registrar or an assistant registrar of the Supreme Court, and the certificate and the schedule, if any, thereto or a duplicate or counterpart of it shall be registered in full both in the Supreme Court and in the land registry office of the registry division where the land lies without any further proof thereof. R.S.O. 1970, c. 396, s. 24.

Registration of certificate

25. A certificate of the registration in the Supreme Court may be endorsed on the certificate of title or on any counterpart or certified copy thereof, thus:

Registered in ..... 19...., ...Book,

Page....., ...

A.H.,
Registrar of the Supreme Court (*or as the case may be*)

and a memorandum or certificate so signed is evidence of the registration mentioned therein. R.S.O. 1970, c. 396, s. 25.

Effect of certificate of title

26. The certificate of title, sealed, signed and registered as required by section 24, is conclusive, and the title therein mentioned shall be deemed absolute and indefeasible on and from the date of the certificate as regards the Crown and all persons whomsoever, subject only to any charges or encumbrances, exceptions or qualifications mentioned therein or in the schedule thereto, and is conclusive evidence that every application, notice, publication, proceeding, consent and act that ought to have been made, given and done before the granting of the certificate, has been made, given and done by the proper person. R.S.O. 1970, c. 396, s. 26.

Certified copy of certificate to be evidence

27. After a certificate of title is registered, a copy thereof purporting to be signed and certified as a copy by the Registrar or an assistant registrar of the Supreme Court, or by the land registrar of the registry division in which the land lies, is admissible evidence of the certificate for all purposes without further evidence of such copy, and without accounting for the non-production of the certificate. R.S.O. 1970, c. 396, s. 27.

Conveyance by the court in case of sale

28. In case of a sale by the Supreme Court, the court may investigate the title with a view to granting an indefeasible title, and in that case a conveyance in Form 4, executed to the purchaser, under the seal of the court and purporting to be under the authority of this Act, has the same effect as a certificate. R.S.O. 1970, c. 396, s. 28.

Where an indefeasible title is contracted for

29. Where judgment is given for the specific performance of a contract for the sale of land and it is provided by the contract that the vendor shall give an indefeasible title, the court may make the like investigation, and the conveyance may be according to Form 4. R.S.O. 1970, c. 396, s. 29.

Right to judicial investigation of some fact that may affect a title

30. Where a person domiciled or claiming land in Ontario desires to establish that he is the child of his parents, or that the marriage of his father or mother or of his grandfather and grandmother was a valid marriage, or that

his own marriage was a valid marriage, or that he is the heir or one of the heirs of a person deceased, or that he is a natural born subject of Her Majesty, he may, if the court thinks fit, have any of such matters judicially investigated and declared. R.S.O. 1970, c. 396, s. 30; 1977, c. 41, s. 21.

Application and affidavit in support

31.—(1) The application shall be by petition supported by an affidavit of the petitioner verifying the statements of the petition and stating that his claim is not disputed or questioned by any person, or, if his claim is to his knowledge disputed or questioned, the facts in relation to such dispute or question, and that he is not aware of any dispute or question except what he has set forth, and stating such other facts as may satisfy the court of the propriety of proceeding with the investigation.

Investigation, proof, etc., in such case

(2) The proceedings upon the petition shall be the same as nearly as may be as in cases under section 1, and the certificate granted on the investigation shall be registered in the same way and may be proved by the like evidence as in the case of a certificate under section 12.

Effect of certificate

(3) The certificate when registered is conclusive and indefeasible in favour of the person to whom it was granted and all persons claiming by, from, through or under him as regards the Crown and all persons whomsoever and is *prima facie* evidence in favour of all other persons as against the Crown and all persons whomsoever of the truth of the fact therein declared. R.S.O. 1970, c. 396, s. 31.

Certificate obtained by fraud

32. If in the course of any proceeding any person acting either as principal or agent knowingly and with intent to deceive makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals, or assists or joins in or is privy to the suppression, withholding or concealing from the court of any material document, fact or matter of information, any certificate or conveyance obtained by means of such fraud or falsehood is void except as against a purchaser for valuable consideration without notice. R.S.O. 1970, c. 396, s. 32.

Reinvestigation, petition for

33.—(1) After a certificate is granted or a conveyance is executed, any person aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, by leave of the court or a judge, have the title or claim reinvestigated on such terms as are considered just. R.S.O. 1970, c. 396, s. 33 (1).

Registration

(2) A certificate of the presentation of the petition shall be registered in the proper land registry office. R.S.O. 1970, c. 396, s. 33 (2); 1972, c. 133, s. 7.

(3) No proceeding on such petition affects the title of any person who, after the date of the certificate or conveyance under this Act and before the registration of the certificate of the presentation of the petition, has acquired by sale, mortgage or contract, for valuable consideration, any estate or interest in the land described in the certificate or conveyance, or, if the certificate was granted under section 30, in any land or other property the title to which was derived from, through or under the person named in the certificate, in the character that is thereby declared to belong to him. Those who have purchased, etc., in the meantime not to be affected

(4) The court or judge may make such order on the petition as he considers just having regard to subsection (3) and of section 32. R.S.O. 1970, c. 396, s. 33 (3, 4). What order may be made

34. An appeal lies from an order or decision of a judge under this Act to the Divisional Court in accordance with the rules of court. R.S.O. 1970, c. 396, s. 34, *revised*. Appeals

35. A separate book shall be kept in the Supreme Court for the registration of certificates and conveyances under this Act, and the certificates and conveyances registered therein shall be numbered in order, and an index to the book shall be kept in such form as the court may direct. R.S.O. 1970, c. 396, s. 35. Register to be kept

36. Where any person who, if not under disability, might have made any application, given any consent, or done any act, or been party to any proceedings under this Act, is a minor, a mentally defective person, or a mentally incompetent person, the guardian of the minor, or committee of the estate of the mentally defective person or mentally incompetent person, may make such application, give such consent, do such act, and be party to such proceeding as such person might if free from disability, and shall otherwise represent such person for the purposes of this Act, and if the minor has no guardian, or the mentally defective person or mentally incompetent person no committee of his estate, the court or judge may appoint a person with like power to act for the minor, mentally defective person or mentally incompetent person. R.S.O. 1970, c. 396, s. 36. Where any party is a minor, mental defective, etc.

37. No objection to a petition shall be allowed upon the ground that the petitioner should first have brought an action, and, if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the land, he may obtain an order against any other party to the proceeding for the delivery of possession thereof. R.S.O. 1970, c. 396, s. 38. Objections to petition

Proceedings not abated by certain events

38. Proceedings shall not abate or be suspended by a death or transmission or change of interest, but in any such event the court or a judge may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto as seem just. R.S.O. 1970, c. 396, s. 39.

Proceedings not void for want of form

39. No petition, order, affidavit, certificate, registration or other proceeding is invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1970, c. 396, s. 40.

Inspector of Titles

40.—(1) There shall be an Inspector of Titles who shall supervise the work of the local referees of titles.

to be officer of Supreme Court

(2) Such officer of the Supreme Court as is designated for that purpose by the rules of court is the Inspector of Titles. R.S.O. 1970, c. 396, s. 41.

Referees of Titles

41. Every local master of the Supreme Court is local referee of titles and, where the proceedings under the petition are to be conducted at Toronto, the Inspector of Titles is Referee of Titles. 1972, c. 49, s. 1.

Powers of Inspector and referees

42. The Inspector of Titles, the Referee of Titles and every local referee of titles in respect of the petition and the proceedings thereunder have the like powers as the Master of the Supreme Court. R.S.O. 1970, c. 396, s. 43.

Powers of Referee of Titles

43. The Referee of Titles and every local referee of titles have the same powers as a judge of the Supreme Court within the limits prescribed by the rules. R.S.O. 1970, c. 396, s. 44.

Application of R.S.O. 1980, c. 223

44. Subject to the rules of court and except where otherwise provided, the practice and procedure under the *Judicature Act* and the rules made thereunder apply to proceedings under this Act. R.S.O. 1970, c. 396, s. 45.

Rules Committee may make general rules

45.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules for referring petitions under this Act to any referee of titles or other officer of the court or to any counsel or other person, and may regulate the fees to be paid on such references.

(2) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may also make rules for the purposes of and for regulating the practice or procedure under this Act notwithstanding that the practice or procedure prescribed by this Act may be thereby varied. R.S.O. 1970, c. 396, s. 46. Rules for practice and procedure

FORM 1

(*Section 4*)

PETITION TO QUIET A TITLE

In the Supreme Court of Ontario

In the matter of (*the east half of lot No.....in the..... Concession of the Township of....., or as the case may be, briefly describing the property*).

To the Honourable the Judges of the Supreme Court of Ontario.

The Petition of.....of.....

SHEWETH:

That your Petitioner is absolute owner in fee simple in possession (*or as the case may be*) of the following land (*describing it*):

That there is no charge or other encumbrance affecting your Petitioner's title to the land (except, etc., *or* that your Petitioner's title is subject only to the charges or encumbrances in the schedule hereto mentioned, and that the only persons having or claiming any charge, encumbrance, estate, right or interest in the land are set forth in the schedule hereto annexed, and that the charge, encumbrance, estate, right or interest belonging to or claimed by each is therein set forth). Your Petitioner therefore prays that his title to the land may be investigated and declared under the *Quieting Titles Act*.

A.B.,

or
C.D., Solicitor for *A.B.*

R.S.O. 1970, c. 396, Form 1.

FORM 2

(*Section 16 (1)*)

ADVERSE CLAIM

In the Supreme Court of Ontario

In the matter of, etc., (*as in petition*).

G.H., of, etc., claims to be the owner of the land [*or as the case may be* (*stating briefly the nature and the grounds of the claim*)].

Dated this.....day of....., 19....

G.H.,

or
E.F., Solicitor for *G.H.*

R.S.O. 1970, c. 396, Form 2.

FORM 3

(*Section 24*)

CERTIFICATE OF TITLE

In the Supreme Court of Ontario

These are to certify under the authority of the *Quieting Titles Act*, that *A.B.*, of....., is the legal and beneficial owner in fee simple in possession (*or as the case may be*) of all, etc. (*here describe the land*) subject to the exceptions and qualifications mentioned in section 22 of the said Act (*or as the case may be*), and to (*specifying either by reference to a schedule or otherwise any of the charges or encumbrances, exceptions or qualifications to which the title of A.B. is subject*), but free from all other rights, interests, claims and demands whatever.

[*Or that* (*stating the facts found and declared under section 30 and stating on whose application they are declared*)].

In witness whereof..... one of the Justices of the Court has hereunto set his hand, and the seal of the Court has been hereunto affixed,

this.....day of....., 19.....

G.S.H., *J.A.B.* [*L.S.*]
Inspector (*or Referee*) of Titles.

R.S.O. 1970, c. 396, Form 3.

FORM 4

(*Section 28*)

CONVEYANCE BY THE SUPREME COURT

The Supreme Court of Ontario, under the authority of the *Quieting Titles Act*, doth hereby grant unto *A.B.*, of..... [*here describe the land sold*] to hold the same unto the said..... .....in fee simple (*or as the case may be*), subject to [*here specify as in the case of a certificate of title*].

In witness whereof..... .....one of the Justices of the Court has hereunto set his hand, and the seal of the Supreme Court has been hereunto affixed, this.....day of....., 19.....

G.S.H., *J.A.B.* [*L.S.*]
Registrar.

R.S.O. 1970, c. 396, Form 4.

CHAPTER 428

Race Tracks Tax Act

Interpretation

1. In this Act,

(*a*) "Minister" means the Minister of Revenue;

(*b*) "person" includes an incorporated company, association and club;

(*c*) "race meeting" means a series of races for horses;

(*d*) "regulations" means the regulations made under this Act;

(*e*) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 397, s. 1; 1978, c. 62, s. 16 (2).

Tax on bets

2.—(1) Every holder of a winning ticket issued under the pari-mutuel system upon a race run at a race meeting shall pay a tax at the rate of 7 per cent upon the amount that would be payable to him if no percentage were deducted or retained by the person holding the race meeting in respect of such race.

Collection

(2) The tax shall be collected by the person holding the race meeting as the agent of the Treasurer by deducting from the total amount bet or wagered upon such race, a sum equal to 7 per cent of the amount so bet or wagered, and such sum shall be paid over to the Treasurer at the close of each day's racing.

Trust moneys

(3) Every person who collects any tax under this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and is responsible for the payment over of it in the manner and time provided by this Act and the regulations.

Idem

(4) All amounts collected by a person under this Act shall be kept separate and apart from his own moneys. R.S.O. 1970, c. 397, s. 2.

Returns at close of meeting

3.—(1) Every person owning, operating or using a race track and holding a race meeting shall at the end of every fourteen days, or such other greater or lesser period as the

Minister may designate, during the term of the race meeting and at or immediately after its close furnish to the Minister a separate return for each track,

(*a*) of the moneys received and of the moneys paid out at or in connection with the race meeting;

(*b*) of the total amount wagered on the track or tracks at the race meeting in respect of which such person derived any benefit;

(*c*) of the percentage or other portion thereof taken by such person; and

(*d*) of such other information as may be required by the Minister.

Office and books

(2) Every person owning, operating or using a race track and holding a race meeting shall maintain an office at or near the race track and within Ontario at which at all times shall be kept the books of account and vouchers relating to the race track and any race meetings held by him, and, in the case of a company, association or club, the minute book shall also be kept at such office and the books of account, vouchers and minute book shall at all times be open to the inspection of the Minister or his duly accredited representative.

Access

(3) Such officers or clerks of the Ministry of Revenue as are appointed by the Minister for the purpose of ascertaining the amount wagered in connection with the tax imposed by section 2 have access free of all charge at all times to all parts of any race track including the pari-mutuel plant connected therewith during the progress of a race meeting.

Offences

(4) Every person opening or continuing a race meeting on any day in respect of which the tax imposed by this Act has not been paid or neglecting or refusing to deduct and pay over the tax mentioned in section 2, or neglecting to furnish the statement required by subsection (1), or to comply with subsection (2), is liable to a penalty of $1,000 for every day during which the default continues, and where such person is a company, association or club, every director, manager or secretary thereof who wilfully authorizes or permits such default is liable to a like penalty.

Default

(5) Where default has been made by such person in deducting and paying over the tax mentioned in section 2 or in making any return required by this section or under any other provision of this Act, or in complying with subsection (2), or such person is contravening any statute of Canada or of

Ontario, any member of the Ontario Provincial Police Force, acting under the instructions of the Minister, may stop all racing upon the track of such person, or the holding of any further race meeting by such person. R.S.O. 1970, c. 397, s. 3; 1972, c. 1, s. 1.

Payment of tax

4. Where under any agreement or arrangement whenever entered into, a person conducting a race meeting upon a race course has leased, assigned or otherwise disposed of, or suffers or permits the enjoyment of the betting privileges or the operation of pari-mutuel machines upon or in connection with such race course to or by any other person, such other person shall deduct and pay over to the Treasurer the tax imposed by this Act and this Act applies to such other person as well as to the person conducting such race meeting, and, in the event of the neglect, refusal or failure of such other person to deduct and pay over the tax and to comply with this Act, the person conducting the race meeting in respect of which such default occurs as well as such other person is liable to the penalties provided by this Act, and any member of the Ontario Provincial Police Force acting under the instructions of the Minister may stop all racing upon the track upon which the race meeting is conducted or the holding of any further race meeting by such person. R.S.O. 1970, c. 397, s. 4.

Obtaining information

5.—(1) For the purpose of obtaining any information that he considers necessary for the purposes of this Act, the Minister may,

(*a*) demand from any person such information as is indicated in a letter delivered or sent by prepaid mail to the person and the person shall furnish to the Minister all such information that he has in his possession or under his control, in writing, within thirty days of the delivery or sending of the letter; or

(*b*) appoint any officer of the Ministry of Revenue to make such inquiry as is necessary to obtain such information and, for the purpose of the inquiry, the officer has all the power and authority of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 397, s. 5 (1); 1971, c. 49, s. 18; 1972, c. 1, s. 1.

R.S.O. 1980, c. 411

Idem

(2) Any act done or proceeding taken under either of the clauses of subsection (1) does not preclude the Minister from proceeding under the other clause. R.S.O. 1970, c. 397, s. 5 (2).

Recovery of taxes and penalties

6.—(1) The taxes and penalties imposed under this Act may be recovered by an action in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred.

Penalties

R.S.O. 1980, c. 400

(2) Except where otherwise provided, the penalties imposed by this Act may be recovered in the manner provided by the *Provincial Offences Act* and are payable to the Treasurer.

Recovery of tax

(3) Upon default of payment by a person holding the race meeting of any tax collectable under this Act, the Minister may issue a warrant directed to the sheriff of any county or district in which the property of a person liable to make remittance under this Act is located or situate for the amount of tax, interest and penalty, or any of them, owing by him, together with interest thereupon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Remedies for recovery of tax

(4) The use of any remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to any other remedies existing by law. R.S.O. 1970, c. 397, s. 6.

Interest

7. Any amount payable or to be remitted to the Treasurer under this Act bears interest at the rate prescribed by the regulations from the day on which the amount should have been paid or remitted to the Treasurer to the day of payment. R.S.O. 1970, c. 397, s. 7.

Surety bond

8. The Minister may require a person holding a race meeting to furnish a surety bond on such terms and conditions and in such amount as the Minister considers appropriate. R.S.O. 1970, c. 397, s. 8.

Minister not bound by returns

9.—(1) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information as delivered, or if no return or information has been delivered, assess the tax payable under this Act.

Assessment and re-assessment

(2) The Minister may at any time assess tax, interest or penalties and may at any time reassess or make additional assessments. R.S.O. 1970, c. 397, s. 9.

Regulations

10. The Lieutenant Governor in Council may make regulations,

(*a*) authorizing or requiring the Deputy Minister of Revenue or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;

(*b*) prescribing the forms of returns required to be made by this Act and the information to be furnished therein;

(*c*) providing for the manner of collecting the tax imposed by this Act;

(*d*) prescribing the rate of interest payable on amounts payable to or to be remitted to the Treasurer under this Act;

(*e*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 397, s. 10; 1972, c. 1, s. 1; 1972, c. 20, s. 1.

Affidavits and declarations

11. Declarations and affidavits in connection with this Act may be taken before any person having authority to administer an oath, or before any person specifically authorized for that purpose by the Lieutenant Governor in Council, but any person so specifically authorized shall not charge any fee therefor. R.S.O. 1970, c. 397, s. 11.

Information obtained under Act

12.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Offence

(2) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 397, s. 12.

CHAPTER 429

Racing Commission Act

Interpretation

1. In this Act,

(*a*) "Commission" means the Ontario Racing Commission;

(*b*) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council. R.S.O. 1970, c. 398, s. 1.

Commission continued 1950, c. 67

2. The body corporate known as the Ontario Racing Commission, established under *The Racing Commission Act, 1950*, is continued and shall be composed of not fewer than three and not more than seven members appointed by the Lieutenant Governor in Council. R.S.O. 1970, c. 398, s. 2.

Object

3. The objects of the Commission are to govern, direct, control and regulate horse racing in Ontario in any or all of its forms. R.S.O. 1970, c. 398, s. 3.

Term of office

4. The members of the Commission shall hold office for a term of not more than three years, but any person is eligible for reappointment. R.S.O. 1970, c. 398, s. 4.

Chairman and vice-chairman

5.—(1) The Lieutenant Governor in Council shall name one of the members to be the chairman and one of the members to be the vice-chairman.

Absence of chairman

(2) When the office of chairman is vacant or in the absence of the chairman, the vice-chairman shall act in his place and stead. R.S.O. 1970, c. 398, s. 5.

Quorum

6.—(1) At any meeting of the Commission a majority of the members constitutes a quorum, and a majority vote of the members present at any meeting of the Commission determines any question.

Casting vote

(2) The chairman has a casting vote in addition to his ordinary vote. R.S.O. 1970, c. 398, s. 6.

Vacancies

7. The Lieutenant Governor in Council may fill any vacancy that occurs in the membership of the Commission. R.S.O. 1970, c. 398, s. 7.

Salaries of members

8. The Lieutenant Governor in Council shall fix the salaries of the chairman, the vice-chairman and the other members of the Commission. R.S.O. 1970, c. 398, s. 8; 1973, c. 116, s. 1.

Chairman and staff to be civil servants R.S.O. 1980, c. 418

9.—(1) The chairman of the Commission and all officers, clerks and other employees thereof are subject to the *Public Service Act* and are civil servants within the meaning of that Act.

Members may be made civil servants

(2) The Lieutenant Governor in Council may provide that the members of the Commission, other than the chairman, or any of them, are subject to the *Public Service Act* and are civil servants within the meaning of that Act. R.S.O. 1970, c. 398, s. 9.

Expenses payable out of vote

10. The salaries and expenses of the members of the Commission and of the officers, clerks and other employees thereof, and generally all costs, charges and expenses incurred and payable in respect of the carrying out of this Act, shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 398, s. 10.

Powers of Commission

11. The Commission has power,

(*a*) to govern, direct, control and regulate horse racing in Ontario in any or all of its forms;

(*b*) to govern, control and regulate the operation of race tracks in Ontario at which any form of horse racing is carried on;

(*c*) to hold hearings relating to the carrying out of its objects or powers, and to summon any person by subpoena signed by the chairman or by any other member of the Commission, and to require such person to give evidence on oath and to produce such documents and things as the Commission considers requisite in any such hearing;

(*d*) to enforce the carrying out and observance of all regulations, rules and conditions established under this Act, by a fine or other penalty or otherwise;

(*e*) to make by-laws for the conduct of its business and for the control and direction of its work;

(*f*) to license persons to operate race tracks at which horse racing in any of its forms is carried on and to impose such terms and conditions on a licence as the Commission considers expedient;

(*g*) to license owners, trainers, drivers, jockeys, apprentice jockeys, grooms, jockeys' agents, jockeys' valets, exercise boys, tradesmen and such other persons in or about race tracks at which horse racing in any of its forms is carried on, and to impose such terms and conditions on a licence, as the Commission considers expedient;

(*h*) to fix and collect fees or other charges for licences, prescribe the form thereof and the conditions under which they may be issued;

(*i*) to refuse to grant any licence or to suspend or revoke any licence for conduct that the Commission considers to be contrary to the public interest;

(*j*) to require registration with the Commission of, and to register colours, assumed names, partnerships and contracts and such other matters and things as the Commission considers expedient;

(*k*) to fix and collect fees or other charges for registration under clause (*j*) and to prescribe the form thereof and the conditions under which registration may be made;

(*l*) to make and promulgate rules for the conduct of horse racing in any of its forms;

(*m*) to employ stewards, veterinarians, analysts and such other persons as the Commission considers expedient to attend at race meetings on behalf of the Commission;

(*n*) to require approval by the Commission of the appointment of race track officials and employees whose duties relate to the actual running of horse races and to compel the discharge for cause of any such official or employee;

(*o*) to fix, impose and collect fines and other penalties for a contravention of any requirement of the Commission under this Act;

(*p*) to require persons licensed to operate race tracks to keep books of account in a manner satisfactory to the Commission, and to inspect such books at any time;

(*q*) to do such things relating to horse racing in any or all of its forms, or to the operation of race tracks at

which horse racing is carried on, as are authorized or directed by the Lieutenant Governor in Council. R.S.O. 1970, c. 398, s. 11; 1973, c. 116, s. 2.

Audit

12. The accounts of the Commission shall be audited by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council may appoint. R.S.O. 1970, c. 398, s. 12.

Annual report

13. The Commission shall make a report annually to the Minister, containing such information as the Minister may require. R.S.O. 1970, c. 398, s. 13.

Regulations

14. The Lieutenant Governor in Council may make regulations with respect to any and all matters or things that are considered necessary for the carrying out of this Act. R.S.O. 1970, c. 398, s. 14.

Rules by Commission for racing

15.—(1) Rules for the conduct of horse racing may be promulgated by the Commission under this Act and the Commission may therein delegate to stewards, judges, veterinarians, race track officials, racing association officials, licensing agents or officers of the Commission such of the following powers as the Commission considers expedient,

(*a*) to hold hearings relating to the carrying out of its objects or powers;

(*b*) to enforce the carrying out and observance of all regulations, rules and conditions established under this Act;

(*c*) to license owners, trainers, drivers, jockeys, apprentice jockeys, grooms, jockeys' agents, jockeys' valets, exercise boys, tradesmen and such other persons in or about race tracks at which horse racing in any of its forms is carried on;

(*d*) to collect fees or other charges for licences;

(*e*) to impose and collect fines and other penalties for a contravention of any requirement of the Commission under this Act. 1973, c. 116, s. 3, *part*.

Adoption by reference and delegation of powers

(2) The Commission may adopt by reference, in whole or in part, with such changes as the Commission considers necessary, rules and procedures of racing associations or

bodies and may delegate to racing associations or bodies the power to,

(*a*) enforce the carrying out and observance of the rules and procedures as adopted or amended;

(*b*) hold hearings in respect of the contravention of any of the rules or procedures; and

(*c*) impose and collect fines, costs and other penalties for the contravention of any of the rules or procedures,

and where a power has been so delegated to a racing association or body, it shall have the right to exercise discretion or judgment in relation to the powers delegated.

Power to summon

(3) Every person, association or body to whom a power to hold hearings has been delegated under subsection (1) or (2), may summon any person by subpoena and require any person so summoned to give evidence on oath and to produce such documents and things as may be required for purposes of a hearing. 1978, c. 25, s. 1 (1), *part*.

Aggrieved person entitled to a hearing

(4) Subject to subsection (6), any person who considers himself aggrieved by a decision of a person delegated by the Commission under a rule made under subsection (1) or by a decision resulting from a hearing held pursuant to a delegation under subsection (2), is entitled to a hearing by the Commission and, in the case of a hearing, the Commission may exercise its powers and duties under section 11 as if such powers and duties had not been delegated.

Penalty

(5) Where the Commission, after holding a hearing, is of the opinion that the request for the hearing was frivolously made, the Commission may order the person requesting the hearing to pay to the Commission a penalty of not more than $300 in addition to any other penalty that may be imposed.

Appeals prior to hearing by Commission

(6) Where the rules of the Commission, promulgated or adopted, provide for an appeal to an association or body, any person who considers himself aggrieved shall appeal in accordance with the rules before applying to the Commission for a hearing under subsection (4). 1978, c. 25, s. 1 (2).

Orders or rules to be administrative

(7) Any order or rule issued or made by the Commission under this Act shall be deemed to be of an administrative and not of a legislative nature. 1973, c. 116, s. 3, *part*.

Quorum for hearings

(8) For the purposes of a hearing under subsection (4), three members of the Commission, one of whom shall be the chairman or vice-chairman, constitute a quorum.

Commission may review decision

(9) The Commission may, on its own motion, review any decision made by a racing association or body pursuant to a power delegated under subsection (2) and may, after affording the parties an opportunity to be heard, confirm the decision reviewed or substitute its own decision in lieu thereof. 1978, c. 25, s. 1, *part*.

CHAPTER 430

Radiological Technicians Act

Interpretation

1. In this Act,

(*a*) "Board" means the board appointed under this Act;

(*b*) "Canadian Society" means the Canadian Society of Radiological Technicians;

(*c*) "Ontario Society" means the Ontario Society of Radiological Technicians;

(*d*) "radiological technician" means a person who practises the technical aspects of the medical use of ionizing radiation, including Roentgen or X-rays, radium, radioactive isotopes and particles for diagnosis or treatment;

(*e*) "radiologist" means a legally qualified medical practitioner who holds a specialist certification in diagnostic or therapeutic radiology from the Royal College of Physicians and Surgeons of Canada;

(*f*) "registered" means registered under this Act, and "registration" has a corresponding meaning;

(*g*) "registrar" means the registrar appointed by the Board;

(*h*) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 399, s. 1.

Board

2.—(1) The Board of Radiological Technicians is continued and shall consist of seven members appointed by the Lieutenant Governor in Council, comprising,

(*a*) four radiological technicians recommended by the Board of Directors of the Ontario Society;

(*b*) two radiologists recommended by the Section of Radiology of the Ontario Medical Association; and

(c) one person, recommended by the board of directors of the Ontario Medical Association from the secretariat of the Ontario Medical Association, who is not a radiologist.

Term of office

(2) Every member of the Board shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office.

Vacancies

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the Lieutenant Governor in Council by the appointment of a person to hold office for the remainder of the term of such member.

Officers

(4) The Board shall elect one member of the Board to be the chairman, one to be the vice-chairman and one to be the secretary-treasurer of the Board. R.S.O. 1970, c. 399, s. 2.

Corporation

3.—(1) The Board is a corporation.

Function

(2) The Board shall administer and enforce this Act and the regulations.

Actions against Board barred

(3) No action shall be brought against the Board or any member of it for anything done under this Act or the regulations. R.S.O. 1970, c. 399, s. 3.

By-laws

4. The Board may pass by-laws providing for,

(a) the calling and conduct of its meetings and proceedings;

(b) the remuneration and expenses of persons employed by the Board while engaged upon the business of the Board;

(c) the appointment and remuneration of a registrar, teachers, examiners, inspectors and such other persons as the Board may employ, and prescribing the duties of such persons;

(d) banking and finance and the management of its property;

(e) entering into an agreement or agreements with any university, school or college for such instruction, direction and lectures as may be necessary for the purposes of this Act; and

(*f*) all other matters reasonably necessary for carrying out the provisions of this Act. R.S.O. 1970, c. 399, s. 4.

Registration

5.—(1) The Board shall register any radiological technician who, on the 1st day of August, 1964,

(*a*) is an active or associate member of the Ontario Society; or

(*b*) has met the training and examination standards prescribed jointly by the Canadian Society and the Canadian Association of Radiologists, and is practising as a radiological technician in Ontario, and applies to the Board to be registered before the 1st day of August, 1965; or

(*c*) has been practising in Ontario as a radiological technician for a period of five years under the supervision of a legally qualified medical practitioner and passes the examinations of the Board,

and complies with the regulations.

Idem

(2) The registrar shall register any person who,

(*a*) has completed the course of training prescribed by the regulations;

(*b*) has passed the examinations of the Board; and

(*c*) has paid the prescribed fees. R.S.O. 1970, c. 399, s. 5.

Register

6.—(1) The registrar shall keep a register of all registered radiological technicians showing their places of business or employment from time to time.

Errors, etc.

(2) If an application for registration is refused by the registrar or an entry is made in the register in error or by reason of misrepresentation, the Board may direct that the necessary entry, erasure or amendment be made in the register, and the registrar shall make such entry, erasure or amendment. R.S.O. 1970, c. 399, s. 6.

Certificate of registration

7. The registrar shall issue a certificate of registration in respect of each registration, which shall be renewed annually at such times and upon such conditions and the payment of such fee as the regulations prescribe. R.S.O. 1970, c. 399, s. 7.

Use of title

8. No person shall use the title "Registered Radiological Technician" or the abbreviation "R.R.T." unless he is registered. R.S.O. 1970, c. 399, s. 8.

Unauthorized use of title, etc.

9.—(1) Any person not registered,

(*a*) who assumes or uses the title "Registered Radiological Technician" or the abbreviation "R.R.T.", or any other words or letters to indicate that he is a registered radiological technician; or

(*b*) who directly or indirectly by advertisement, sign or statement of any kind advertises, alleges or claims by any means whatsoever that he is entitled to assume or use the title "Registered Radiological Technician" or the abbreviation "R.R.T.",

is guilty of an offence and is liable on conviction, for a first offence, to a fine of not less than $100 and not more than $200 and, for any subsequent offence, to a fine of not less than $200 and not more than $500 or to imprisonment for a term of not more than three months, or to both.

Disposition of fines

(2) All fines recovered for offences against this section shall be paid to the registrar for the use of the Board. R.S.O. 1970, c. 399, s. 9.

Suspension, revocation of registration

10.—(1) The Board may by order suspend or revoke the registration of any registered radiological technician who it finds has been guilty of unprofessional conduct as defined by the regulations, or of incompetence, fraud or misrepresentation in connection with his practice.

Public hearing

(2) Before suspending or revoking the registration of a registered radiological technician under subsection (1), the Board shall, by notice in writing, inform him of the complaint or charge that has been made against him and shall provide him with an opportunity of appearing in person or by counsel before the Board at a public hearing and of presenting such evidence and making such representations as he desires. R.S.O. 1970, c. 399, s. 10 (1, 2).

Powers

R.S.O. 1980, c. 411

(3) The chairman or vice-chairman of the Board in conducting a public hearing under this section has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the hearing as if it were an inquiry under that Act. R.S.O. 1970, c. 399, s. 10 (3); 1971, c. 49, s. 18.

(4) The Board may review at any time any order made under this section and may make such further order as it considers proper.

Service of order

(5) A copy of any order made under this section shall be served on the person affected. R.S.O. 1970, c. 399, s. 10 (4, 5).

Appeal

11.—(1) Any person affected by an order made under section 10 may appeal therefrom to a judge of the county or district in which he practises.

Notice of appeal

(2) Notice of appeal shall be given in writing within two weeks after service of the copy of the order of the Board on the person affected by filing a copy of the notice of appeal with the clerk of the court and serving a copy thereof on the registrar.

Date of hearing

(3) The appellant shall apply to the judge to fix a date for the hearing of the appeal, and shall forthwith serve on the registrar notice of the date so fixed.

Appearances

(4) The appellant may appear on the appeal in person or by counsel, and the Board may appear by any member thereof or by counsel.

Nature of appeal

(5) The hearing of the appeal shall be a trial *de novo*, and the judge may hear all such evidence as he considers to be relevant and may affirm the order of the Board, or amend it and affirm it as amended, or set it aside. R.S.O. 1970, c. 399, s. 11.

Register as evidence

12. The register, or a copy thereof certified by the registrar, is admissible in any proceedings as evidence of registration or lack thereof. R.S.O. 1970, c. 399, s. 12.

Limitation of actions

13. No registered radiological technician is liable in any civil action for negligence or malpractice by reason of professional services requested or rendered unless such action is commenced within twelve months from the date when, in the matter complained of, such professional services terminated. R.S.O. 1970, c. 399, s. 13.

Regulations

14.—(1) The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

(*a*) prescribing the requirements for admission to courses of training for radiological technicians and the content of such courses;

(*b*) providing for the holding of examinations for candidates for registration who are in attendance at or graduates of courses for radiological technicians and for persons referred to in clause 5 (1) (*c*),

(c) governing registration and the suspension and cancellation of registration and the issue and renewal of certificates of registration;

(d) defining unprofessional conduct for the purposes of this Act;

(e) prescribing fees for the examination of candidates for registration, and for registration and for the renewal of registration;

(f) prescribing the fees and expenses payable to members of the Board while carrying on their duties under this Act;

(g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Submission of regulations for approval

(2) Every regulation made by the Board shall be submitted in writing to the Council of the College of Physicians and Surgeons of Ontario at least thirty days before being submitted to the Lieutenant Governor in Council for approval, and any submissions of the Council of the College of Physicians and Surgeons of Ontario shall be submitted to the Lieutenant Governor in Council with the application for approval of the regulations. R.S.O. 1970, c. 399, s. 14.

CHAPTER 431

Real Estate and Business Brokers Act

1. In this Act, Interpretation

(*a*) "broker" means a person who, for another or others, for compensation, gain or reward or hope or promise thereof, either alone or through one or more officials or salesmen, trades in real estate, or a person who holds himself out as such;

(*b*) "business" means an undertaking carried on for the purpose of gain or profit, and includes an interest in any such undertaking, and, without limiting the generality of the foregoing, includes a boarding house, hotel, store, tourist camp and tourist home;

(*c*) "business premises" does not include a dwelling;

(*d*) "Director" means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;

(*e*) "dwelling" means any premises or any part thereof occupied as living accommodation;

(*f*) "Minister" means the Minister of Consumer and Commercial Relations;

(*g*) "officer" means the chairman or vice-chairman of the board of directors, president, vice-president, secretary, treasurer or secretary-treasurer or general manager of a corporation or a partner or general manager of a partnership and includes the manager of the real estate department of a trust company;

(*h*) "prescribed" means prescribed by this Act or the regulations;

(*i*) "real estate" includes real property, leasehold and business whether with or without premises, fixtures, stock-in-trade, goods or chattels in connection with the operation of the business;

(*j*) "register" means the register under this Act;

(*k*) "Registrar" means the Registrar of Real Estate and Business Brokers;

(*l*) "regulations" means the regulations made under this Act;

(*m*) "salesman" means a person employed, appointed or authorized by a broker to trade in real estate;

(*n*) "trade" includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition or transaction, and any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, and the verb "trade" has a corresponding meaning;

R.S.O. 1980, c. 274

(*o*) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. R.S.O. 1970, c. 401, s. 1; 1971, c. 50, s. 76 (1); 1972, c. 1, ss. 1, 23 (5), 53 (1, 2).

REGISTRAR

Registrar

2.—(1) There shall be a Registrar of Real Estate and Business Brokers who shall be appointed by the Lieutenant Governor in Council.

Powers and duties

(2) The Registrar may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Director. R.S.O. 1970, c. 401, s. 2.

REGISTRATION

Registration

3.—(1) No person shall,

(*a*) trade in real estate as a broker unless he is registered as a broker;

(*b*) trade in real estate as a salesman unless he is registered as a salesman of a registered broker;

(*c*) act on behalf of a corporation or partnership in connection with a trade in real estate unless he and

the corporation or partnership are registered as brokers.

Change in partnership

(2) Any change in the membership of a partnership shall be deemed to create a new partnership for the purpose of registration.

Change in officers of corporation

(3) A change in the officers of a corporation registered as a broker may be made only with the consent of the Registrar. R.S.O. 1970, c. 401, s. 3.

Registration of branch offices

4.—(1) No broker shall conduct a business of trading in real estate from more than one place at which the public is invited to deal unless he is registered in respect of each such place, one of which shall be designated in the registration as the main office and the remainder as branch offices.

Management of branch offices

(2) Each branch office shall be under the supervision of a registered broker and each branch office having more than one registered salesman shall be under direct management by a registered broker or by a salesman who has been registered for at least two years and who is under the supervision of a registered broker. R.S.O. 1970, c. 401, s. 4.

Exemptions

5. Registration shall not be required in respect of any trade in real estate by,

(*a*) an assignee, custodian, liquidator, receiver, trustee or other person acting under the *Bankruptcy Act* (Canada), the *Corporations Act*, the *Business Corporations Act*, the *Judicature Act*, the *Winding-up Act* (Canada), or to a person acting under the order of any court, or an executor or trustee selling under the terms of a will, marriage settlement or deed of trust; R.S.C. 1970, cc. B-3, W-10 R.S.O. 1980, cc. 95, 54, 223

(*b*) an auctioneer where the trade is made in the course of and as part of his duties as auctioneer;

(*c*) a person who is registered under the *Securities Act* where the trade is made in the course of and as part of his business in connection with a trade in securities; R.S.O. 1980, c. 466

(*d*) a bank or a loan, trust or insurance company trading in real estate owned or administered by the company;

R.S.O. 1980, c. 268

(*e*) a person in respect of any mine or mining property within the meaning of the *Mining Act* or in respect of the real estate included in a Crown grant or lease, a mining claim or mineral lands under the *Mining Act* or any predecessor thereof;

(*f*) a full-time salaried employee of a party to a trade where the employee is acting for or on behalf of his employer in respect of land situate in Ontario;

(*g*) a person who is practising as a solicitor of the Supreme Court where the trade is made in the course of and as a part of the solicitor's practice;

(*h*) a person, on his own account, in respect of his real estate, where such trade did not result from,

(i) an offer of such person to act, in connection with such trade or any other trade, for or on behalf of the other party or one of the other parties to the trade, or

(ii) a request that such person act, in connection with such trade or any other trade, for or on behalf of the other party or one of the other parties to the trade,

and the interest of such person in the real estate was acquired prior to such offer or request;

(*i*) a person in respect of the provision for another, for remuneration other than by commission, of all consultations, undertakings and services necessary to arrange for the routing of a right of way including the acquisition of land or interests in land for the purpose, and his employees engaged in the project; or

(*j*) a person specifically exempted by the regulations in respect of any class of trades in real estate. R.S.O. 1970, c. 401, s. 5.

Registration of agencies

6.—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,

(*a*) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or

(b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or

(c) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or

(d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1971, c. 50, s. 76 (2), *part*.

Registration of broker corporation

7.—(1) A corporation having share capital shall not be registered as a broker,

(a) unless the persons holding shares carrying at least 51 per cent of the voting rights attached to all shares of the corporation for the time being outstanding are registered brokers, but this clause does not apply to a corporation that is a trust company registered under the *Loan and Trust Corporations Act*; R.S.O. 1980, c. 249

(b) if any broker holding voting shares of the corporation acts as broker in respect of any other business registered as a broker or holds voting shares in any other corporation registered as a broker, but this clause does not apply to the holding of voting shares of a corporation that is a trust company registered under the *Loan and Trust Corporations Act* where the shares held do not give the holder a substantial interest; or

(c) if a salesman holds shares of the corporation carrying more than 10 per cent of the voting rights attached to all shares of the corporation for the time being outstanding.

Exception

R.S.O. 1980, c. 249

(2) Clause (1) (*b*) does not apply to a corporation that is a trust company registered under the *Loan and Trust Corporations Act* in which a broker holds voting shares amounting to a substantial interest where the shares were held and the trust company was registered under this Act on the 28th day of October, 1970.

Share-holders other than brokers or salesmen

(3) A person other than a broker or salesman may hold voting shares of more than one corporation registered as brokers except that where such person holds voting shares in more than one such corporation he shall not hold more than 10 per cent of the voting shares of each such corporation for the time being outstanding.

Salesmen as share-holders

(4) A salesman shall not,

(*a*) acquire shares of a corporation registered as a broker unless the shares are acquired while he is a salesman for the corporation, but this clause does not apply to the acquisition of shares of a corporation that is a trust company registered under the *Loan and Trust Corporations Act*;

(*b*) hold shares in more than one corporation registered as brokers, at the same time, other than shares of a corporation that is a trust company registered under the *Loan and Trust Corporations Act*; or

(*c*) become a salesman for another broker until he discloses his interest to such broker. R.S.O. 1970, c. 401, s. 7.

Refusal to register

8.—(1) Subject to section 9, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 6 or 7.

Revocation

(2) Subject to section 9, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 or 7 if he were an applicant or where the registrant is in breach of a term or condition of the registration. 1971, c. 50, s. 76 (2), *part*.

Notice of proposal to refuse or revoke

9.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing.

Powers of Registrar where no hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

Powers of Tribunal where hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation of registration pending renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order of Tribunal effective, stay R.S.O. 1980, c. 274

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. 1971, c. 50, s. 76 (2), *part*; 1972, c. 1, s. 23 (5).

Further applications

10. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 401, s. 23.

Investigation of complaints

11.—(1) Where the Registrar receives a complaint in respect of a broker and so requests in writing, the broker shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires.

Idem

(2) The request under subsection (1) shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection (1), the Registrar or any persons designated in writing by him may at any reasonable time enter upon the business premises of the registrant to make an inspection in relation to the complaint. R.S.O. 1970, c. 401, s. 24.

Inspection

12.— (1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts and the regulation of trades are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a broker or salesman while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3 or 4. R.S.O. 1970, c. 401, s. 25.

Powers on inspection

13.—(1) Upon an inspection under section 11 or 12, the person inspecting,

(*a*) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(*b*) may, upon giving a receipt therefor, remove any material referred to in clause (*a*) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 401, s. 26 (1); 1971, c. 50, s. 76 (4).

Admissibility of copies

(2) A copy made as provided in subsection (1) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. R.S.O. 1970, c. 401, s. 26 (2).

Investigations by order of Minister

14. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. 1971, c. 50, s. 76 (5), *part*.

R.S.O. 1980, c. 411

Investigation by Director

15.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,

(*a*) contravened any of the provisions of this Act or the regulations; or

(*b*) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

R.S.C. 1970, c. C-34

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred, and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the

affairs of the person in respect of whom the investigation is being made and may,

(*a*) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(*b*) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980, c. 411

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (*a*), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (*a*) or

subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (*a*) or under subsection (4). 1971, c. 50, s. 76 (5), *part*.

Matters confidential

16.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 11, 12, 13, 14 or 15, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(*a*) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(*b*) to his counsel; or

(*c*) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1971, c. 50, s. 76 (5), *part*.

Report

17. Where, upon the report of an investigation made under subsection 15 (1), it appears to the Director that a person may have,

(*a*) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970, c. C-34

(*b*) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act,

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. R.S.O. 1970, c. 401, s. 28; 1971, c. 50, s. 76 (6).

Order to refrain from dealing with assets

18.—(1) Where,

(*a*) an investigation of any person has been ordered under section 15; or

(*b*) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause (*a*) or (*b*), may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause (*a*) or (*b*) to hold such assets or trust funds or direct the person referred to in clause (*a*) or (*b*) to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction. 1971, c. 50, s. 76 (7).

R.S.O. 1980, c. 223, 95, 54
R.S.C. 1970, cc. B-3, W-10

Bond in lieu

(2) Subsection (1) does not apply where the person referred to in clause (1) (*a*) or (*b*) files with the Director,

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or

R.S.O. 1980, c. 192

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director determines.

Application for direction

(3) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to land registrar

(4) In any of the circumstances mentioned in clause (1) (*a*) or (*b*), the Director may in writing or by telegram notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice. R.S.O. 1970, c. 401, s. 29 (2-4).

Application for cancellation of direction or registration

(5) Any person referred to in clause (1) (*a*) or (*b*) in respect of whom a direction has been given by the Director under subsection (1) or any person having an interest in land in respect of which a notice has been registered under subsection (4) may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal. 1971, c. 50, s. 76 (8).

REGULATION OF TRADING

Books, etc., to be kept

19.—(1) Every broker shall keep a trade record sheet in the prescribed form and proper books and accounts with respect to his trades and shall enter therein in the case of each trade,

(*a*) the nature of the trade;

(*b*) a description of the real estate involved sufficient to identify it;

(c) the true consideration for the trade;

(d) the names of all parties to the trade;

(e) the amount of deposit received and a record of the disbursement thereof; and

(f) the amount of his commission or other remuneration and the name of the party paying it.

Trust ledger

(2) Every broker shall maintain a trust account for every person from whom trust moneys are received in which shall be entered full details of all trust moneys so received and disbursements therefrom. R.S.O. 1970, c. 401, s. 30.

Bank account

R.S.O. 1980, c. 102

20.—(1) Every broker shall maintain an account designated as a trust account in a chartered bank, loan or trust company, credit union, as defined in the *Credit Unions and Caisses Populaires Act*, or Province of Ontario Savings Office in which shall be deposited all moneys that come into his hands in trust for other persons in connection with his business, and he shall at all times keep such moneys separate and apart from moneys belonging to himself or to the partnership, in the case of a partnership, and shall disburse such moneys only in accordance with the terms of the trust. R.S.O. 1970, c. 401, s. 31 (1); 1980, c. 6, s. 5.

Unclaimed trust moneys

(2) Where a broker holds moneys in trust for a period of one year after the person for whom it is held first became entitled to payment of the moneys and such person cannot be located, the broker shall pay the moneys to the Treasurer of Ontario who shall pay the moneys to the person appearing to the Treasurer to be entitled thereto. R.S.O. 1970, c. 401, s. 31 (2).

Notice of changes

21.—(1) Every broker shall, within five days after the event, notify the Registrar in writing of,

(a) any change in his address for service;

(b) any change in the officers in the case of a corporation or partnership;

(c) any commencement or termination of employment, appointment or authorization of a salesman.

Idem (2) Every salesman shall, within five days after the event, notify the Registrar in writing of,

(*a*) any change in his address for service;

(*b*) any commencement or termination of his employment, appointment or authorization by a broker.

Idem (3) The Registrar shall be deemed to be notified under subsections (1) and (2) on the day on which he is actually notified or, where the notification is by mail, on the day of mailing.

Financial statements (4) Every broker carrying on the business of trading in real estate shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the proprietor or officer of the broker's business and certified by a person licensed under the *Public Accountancy Act*. R.S.O. 1980, c. 405

Statement confidential (5) The information contained in a financial statement filed under subsection (4) is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. R.S.O. 1970, c. 401, s. 32.

Action for commission or remuneration **22.** No action shall be brought for commission or for remuneration for services in connection with a trade in real estate unless at the time of rendering the services the person bringing the action was registered or exempt from registration and the court may stay any such action at any time upon summary application. R.S.O. 1970, c. 401, s. 33.

Idem **23.** Subject to section 32, no action shall be brought to charge any person for the payment of a commission or other remuneration for the sale, purchase, exchange or leasing of real estate,

(*a*) unless the agreement upon which the action is brought is in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized; or

(*b*) unless the broker or his salesman has obtained an offer in writing that is accepted; or

(*c*) unless the broker having been authorized in writing to list the property,

(i) shows the property to the purchaser, or

(ii) introduces the purchaser to the vendor for the purpose of discussing the proposed sale, purchase, exchange or leasing. R.S.O. 1970, c. 401, s. 34.

Promises to resell, etc., prohibited

24. No broker or salesman shall, as an inducement to purchase, sell or exchange real estate, make any representation or promise that he or any other person will,

(*a*) resell or in any way guarantee or promise to resell any real estate offered for sale by him;

(*b*) purchase or sell any of the purchaser's real estate;

(*c*) procure a mortgage, extension of a mortgage, lease or extension of a lease; or

(*d*) purchase or sell a mortgage or procure a loan,

unless at the time of making the representation or promise the broker or salesman making it delivers to the person to whom the representation or promise is made a statement signed by the broker or salesman clearly setting forth all the details of the representation or promise made. R.S.O. 1970, c. 401, s. 35.

Carrying on business as individual

25. A broker carrying on business alone and not through an incorporated company shall carry on business in his own name only and shall not use any description, words or device that would indicate that his business is being carried on by more than one person or by a company, but a surviving or remaining partner may carry on business in the name of the original partnership in which case he shall publish on all letterheads and circulars used by him in connection with his business the fact that he is the sole proprietor thereof. R.S.O. 1970, c. 401, s. 36.

Broker not to trade until notified of registration

26. No broker or salesman shall trade in real estate until notified in writing by the Registrar that he is registered. R.S.O. 1970, c. 401, s. 37.

Unregistered broker and salesman

27. A person who is not registered as a broker shall neither directly nor indirectly hold himself out as being a broker and a person who is not registered as a salesman shall neither directly nor indirectly hold himself out as being a salesman. R.S.O. 1970, c. 401, s. 38.

Advertising

28. Every broker shall, when advertising to purchase, sell, exchange or lease real estate, clearly indicate his own name as being the party advertising and that he is a broker, and any reference to the name of a salesman in the advertisement shall clearly indicate the broker as being the employer of the salesman. R.S.O. 1970, c. 401, s. 39.

Employment of unregistered person or salesman of other broker

29. No broker shall,

(*a*) employ or engage the salesman of another broker to trade in real estate or permit such salesman to act on his behalf;

(*b*) employ or engage an unregistered person to trade in real estate or permit such person to act on his behalf; or

(*c*) pay any commission or other remuneration to any person referred to in clause (*a*) or (*b*),

but this section does not prevent the employing, engaging or paying of a person who is duly registered or licensed as a broker or its equivalent in another jurisdiction in respect of a trade in that jurisdiction. R.S.O. 1970, c. 401, s. 40.

Salesmen trading for other brokers

30. No salesman shall trade in real estate on behalf of any broker other than the broker who, according to the records of the Registrar, is his employer, and no salesman is entitled to or shall accept any commission or other remuneration for trading in real estate from any person except the broker who is registered as his employer. R.S.O. 1970, c. 401, s. 41.

Statement where broker or salesman purchases for resale

31.—(1) No broker or salesman shall purchase, lease, exchange or otherwise acquire for himself or make an offer to purchase, lease, exchange or otherwise acquire for himself, either directly or indirectly, any interest in real estate for the purpose of resale unless he first delivers to the vendor a written statement that he is a broker or salesman, as the case may be, and the vendor has acknowledged in writing that he has received the statement.

Idem, where property listed with purchaser

(2) Where real estate in respect of which a broker or salesman is required to give a statement under subsection (1) is listed with the broker or, in the case of a salesman, is listed with the broker by whom the salesman is employed, appointed or authorized to trade in real estate, the statement shall include,

(*a*) full disclosure of all facts within his special knowledge that affect or will affect the resale value of the real estate; and

(*b*) the particulars of any negotiation or agreement by or on behalf of the broker or salesman for the sale, exchange, lease or other disposition of any interest in the real estate to any other person. R.S.O. 1970, c. 401, s. 42.

Breaking of contract prohibited

32.—(1) No broker or salesman shall induce any party to a contract for sale or rental of real estate to break the contract for the purpose of entering into another such contract.

Commission

(2) Unless agreed to in writing by the vendor, no broker is entitled to claim commission from him in respect of a trade in real estate if the real estate is to the knowledge of the broker covered by an unexpired exclusive listing agreement with another broker.

Date of signing listing or offer

(3) Every person signing a listing agreement or an agreement for sale or rental of real estate shall state with his signature the date upon which the signature was actually affixed. R.S.O. 1970, c. 401, s. 43.

Statements to be delivered in purchase of business

33.—(1) Where a trade in a business is negotiated by a broker or his salesman, the broker or his salesman, as the case may be, shall before a binding agreement of purchase and sale is signed by the parties deliver to the person acquiring the business,

(*a*) a profit and loss statement or statement showing the revenue and disbursements of the business during the preceding twelve months or since the acquisition of the business by the person disposing of it; and

(*b*) a statement of the assets and liabilities of the business; and

(*c*) a statement containing a list of all fixtures, goods, chattels, rights and other assets relating to or connected with the business that are not included in the transaction,

and every such statement shall be signed by the person disposing of the business or his agent lawfully authorized in that behalf.

(2) Where the broker or salesman, as the case may be, delivers to the person acquiring the business a statement under oath of the person disposing of the business setting forth, Waiver

(*a*) the terms and conditions under which the person disposing of the business holds possession of the premises in which the business is being carried on; and

(*b*) the terms and conditions under which the person disposing of the business has sublet a part of the premises in which the business is being carried on; and

(*c*) all liabilities of the business; and

(*d*) that the person disposing of the business has made available such books of account of the business as he possesses for inspection by the person acquiring the business, or that the person disposing of the business has refused to do so or has no books of account of the business, as the case may be,

the person acquiring the business may waive compliance with clauses (1) (*a*) and (*b*) by signing and delivering to the broker or salesman, as the case may be, a statement that he has received and read the statement under oath of the person disposing of the business.

(3) Unless the statement mentioned in clause (1) (*c*) is delivered in accordance with subsection (1), all fixtures, goods, chattels and rights and other assets relating to or connected with the business shall be deemed to be included in the transaction. R.S.O. 1970, c. 401, s. 44. What to be deemed included in transaction

34.—(1) No broker or salesman shall request or enter into an arrangement for the payment to him of commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price thereof, nor is a broker or salesman entitled to retain any commission or other remuneration computed upon any such basis. Type of commission prohibited

(2) All commission or other remuneration payable to a broker in respect of a trade in real estate shall be upon an agreed amount or percentage of the sale price or Commission and remuneration, scale

rental, as the case may be, and, where no agreement as to the amount of the commission has been entered into, the rate of commission or other basis or amount of remuneration shall be that generally prevailing in the community where the real estate is situate. R.S.O. 1970, c. 401, s. 45.

Agreement to list real estate with broker

35.—(1) Every broker and salesman shall, immediately after the execution of an agreement to list real estate for sale, exchange, lease or rent with the broker, deliver to the person who has signed the agreement a true copy thereof.

Expiry of agreement

(2) An agreement with a broker to list real estate for sale, exchange, lease or rental is not valid,

(*a*) if it does not contain a provision that it will expire on a certain date specified therein;

(*b*) if it contains a provision for more than one date on which it may expire; or

(*c*) if a true copy of it is not delivered by the broker or his salesman to the other party immediately after its execution. R.S.O. 1970, c. 401, s. 46.

Agreements to sell, purchase, etc.

36. Where a broker or salesman has secured an acceptance of an offer to sell, purchase, exchange, lease or rent real estate, he shall require each of the parties to sign a sufficient number of copies of the agreement and he shall retain one signed copy and shall forthwith deliver one signed copy to each of the parties. R.S.O. 1970, c. 401, s. 47.

TRADING IN SUBDIVISION LOTS OUTSIDE ONTARIO

Interpretation

37. In sections 38 to 46, "subdivision" means improved or unimproved land divided or proposed to be divided into five or more lots or other units for the purpose of sale or lease and includes land divided or proposed to be divided into condominium units. R.S.O. 1970, c. 401, s. 48.

Sale of subdivision land outside Ontario prospectus required

38.—(1) No person shall, in any capacity, trade in real estate, where the real estate is a lot or unit of land in a subdivision located outside Ontario, until there has been filed with the Registrar a prospectus containing the prescribed information and until there has been obtained from the Registrar a certificate of acceptance thereof.

(2) No person shall make any representation, written or oral, that the Director or the Registrar has passed upon the financial standing, fitness or conduct of any person in connection with any such prospectus or upon the merits of any such prospectus. R.S.O. 1970, c. 401, s. 49. Certain representations prohibited

39.—(1) No person shall, either as a vendor or as a broker or salesman, enter into or negotiate any contract for the sale or lease of a lot or a unit of land in a subdivision located outside Ontario unless, Prospectus to be delivered to purchaser

(*a*) a copy of the prospectus referred to in section 38 or such shorter form of the prospectus as the Registrar may have approved for distribution to the public has been delivered to the prospective purchaser or tenant, as the case may be;

(*b*) the prospective purchaser or tenant has in writing acknowledged receipt of a copy of the prospectus or the shorter form of the prospectus and that he has been afforded the opportunity to read it; and

(*c*) he is a registered broker or the contract is negotiated by a registered broker.

(2) Every acknowledgment referred to in subsection (1) shall be retained by the vendor or broker and be available for inspection by the Registrar for a period of not less than three years. Acknowledgment to be retained for inspection

(3) A purchaser or tenant who has entered into a contract where subsection (1) applies is entitled to rescission of the contract if, When purchaser entitled to rescission

(*a*) subsection (1) has not been complied with; and

(*b*) written notice of exercising the right of rescission is served on the vendor or broker within ninety days of the signing of the contract.

(4) In an action for rescission under subsection (3), the onus of proving compliance with subsection (1) rests upon the vendor. Onus of proof

(5) The right of rescission provided in this section is in addition to any other rights that the purchaser or tenant may have in respect of the contract. R.S.O. 1970, c. 401, s. 50. Other rights preserved

Material in support of prospectus

40. Each prospectus submitted to the Registrar for filing shall be accompanied by,

(*a*) an affidavit of the owner of the subdivision or, where the owner is a corporation, any three directors thereof, as to the correctness of every matter of fact stated in the prospectus;

(*b*) a copy of every plan referred to in the prospectus;

(*c*) a copy of every form of contract referred to in the prospectus;

(*d*) such documents as the Registrar may require to support any statement of fact, proposal or estimate set out in the prospectus;

(*e*) such financial particulars of the owner as the Registrar may require; and

(*f*) the prescribed fees. R.S.O. 1970, c. 401, s. 51.

Conditions precedent to grant of certificate

41. The Registrar shall not grant a certificate of acceptance where it appears that,

(*a*) the prospectus contains any statement, promise or forecast that is misleading, false or deceptive, or has the effect of concealing material facts;

(*b*) adequate provision has not been made for the protection of deposits or other funds of purchasers or for assurance of title or other interest contracted for;

(*c*) the prospectus fails to comply in any substantial respect with any of the requirements prescribed;

(*d*) the requirements of section 40 have not been complied with in any substantial respect;

(*e*) the proposed methods of offering do not accord with standard real estate practices in Ontario. R.S.O. 1970, c. 401, s. 52.

Inquiries re prospectus

42.—(1) The Registrar may make such inquiries with respect to a prospectus as are necessary to determine whether a certificate of acceptance should be issued, including,

(*a*) and examination of the subdivision and any of the surrounding circumstances; and

(*b*) the obtaining of reports from public authorities or others within or outside Ontario. 1971, c. 50, s. 76 (9).

Costs

(2) The reasonable and proper costs of such inquiries or reports shall be borne by the person on whose behalf the prospectus was filed. R.S.O. 1970, c. 401, s. 53 (2).

Powers of Registrar

43.—(1) The Registrar shall grant the certificate of acceptance where the requirements of this Act and the regulations have been complied with and he shall not refuse to grant such a certificate without serving a notice of his proposal to refuse on the person on whose behalf the prospectus was filed, and section 9 applies with necessary modifications to the proposal in the same manner as to a proposal to refuse to register an applicant.

Stop orders

(2) Where it appears to the Registrar, subsequent to the filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in section 41 exist, he may revoke the certificate of acceptance and order that all trading in the subdivisions to which the prospectus refers shall cease forthwith.

Notice of revocation of hearing

(3) Subject to subsection (4), the Registrar shall not revoke a certificate of acceptance and make an order under subsection (2) without serving notice of his proposal to revoke the certificate and make the order, together with written reasons therefor, on the person on whose behalf the prospectus was filed, and section 9 applies with necessary modifications to the proposal in the same manner as to a proposal by the Registrar to revoke a registration.

Provisional order

(4) The Registrar, by notice to the person on whose behalf a prospectus was filed, may provisionally suspend the certificate of acceptance and make a provisional order under subsection (2) where continued trading in the subdivision is, in the Registrar's opinion, an immediate threat to the public interest and the Registrar so states in such notice giving his reasons therefor, and thereafter section 9 applies as if the notice given under this section was a notice of proposal to revoke the certificate and make the order under subsection (3). 1971, c. 50, s. 76 (10), *part*.

Change in circumstances

44.—(1) If a change occurs with regard to any of the matters set out in any prospectus,

(*a*) that would have the effect of rendering a statement in the prospectus false or misleading; or

(*b*) that brings into being a fact or proposal that should have been disclosed in the prospectus if the fact or proposal had existed at the time of filing,

the person who filed the prospectus shall, within twenty days of the change occurring, notify the Registrar in writing of the change and shall file an amendment to the prospectus or a new prospectus as the Registrar may direct.

New prospectus every 12 months

(2) Where trading in real estate mentioned in section 38 is still in progress twelve months from the date of the filing of the last prospectus, a new prospectus shall be filed with the Registrar within twenty days from the expiration of such twelve-month period.

Application of ss. 37-43

(3) Sections 37 to 43 apply with necessary modifications where a prospectus is amended or a new prospectus is filed under subsection (1) or (2). R.S.O. 1970, c. 401, s. 56.

Approval of advertisements

45. No person shall publish or cause to be published any advertisement for the sale of a lot or unit in a subdivision located outside Ontario until the advertisement has been approved by the Registrar. R.S.O. 1970, c. 401, s. 58.

Application of ss. 37 to 45

46. Sections 37 to 45 do not apply in respect of a sale of a lot or unit in a subdivision in which the vendor has not, within the previous five years, owned directly or indirectly five or more lots or units. R.S.O. 1970, c. 401, s. 59.

GENERAL

False advertising

47. Where the Registrar believes on reasonable and probable grounds that a broker is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 9 applies with necessary modifications to the order in the same manner as to a proposal by the Registrar to refuse a registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1971, c. 50, s. 76 (11).

Service

48.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently

given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry of Consumer and Commercial Relations. R.S.O. 1970, c. 401, s. 61 (1); 1972, c. 1, s. 53 (3).

Where service deemed to be made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 50, s. 76 (12).

Exception

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. R.S.O. 1970, c. 401, s. 61 (3).

Restraining orders

49.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 401, s. 62.

Offences

50.—(1) Every person who, knowingly,

(*a*) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Consent of Minister

(3) No proceedings under this section shall be instituted except with the consent of the Minister.

Limitation

(4) No proceeding under clause (1) (*a*) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem

(5) No proceeding under clause (1) (*b*) or (*c*) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. R.S.O. 1970, c. 401, s. 63.

Certificate as evidence

51. A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 401, s. 64; 1971, c. 50, s. 76 (13).

Regulations

52. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing any class of trades in real estate or of real estate brokers or salesmen that shall be exempt from all or any of the provisions of this Act;

(*b*) requiring registrants or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

(*c*) requiring and governing the books, accounts and records that shall be kept by registered brokers and providing for the disposition of unclaimed money;

(*d*) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(*e*) prescribing the fees payable upon applications for registration and renewal of registration and any other fees in connection with the administration of this Act and the regulations;

(*f*) prescribing the fees payable upon the filing of a prospectus;

(*g*) prescribing the practice and procedure upon investigations under sections 11 and 13;

(*h*) prescribing forms and providing for their use;

(*i*) prescribing the information required to be contained in a prospectus;

(*j*) requiring registrants to make returns and furnish information to the Registrar;

(*k*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(*l*) prescribing the form and contents of the list of persons registered under this Act that is to be prepared by the Registrar and the date of publication thereof and governing its distribution;

(*m*) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

(*n*) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof. R.S.O. 1970, c. 401, s. 65; 1971, c. 50, s. 76 (14).

List of registered persons to be published

53. The Registrar may, from time to time, prepare, publish and distribute a list of all persons registered under this Act. R.S.O. 1970, c. 401, s. 66.

CHAPTER 432

Reciprocal Enforcement of Judgments Act

Interpretation

1.—(1) In this Act,

(*a*) "judgment" means a judgment or an order of a court in any civil proceedings whereby any sum of money is payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the province or territory where it was made, become enforceable in the same manner as a judgment given by a court therein;

(*b*) "judgment creditor" means the person by whom the judgment was obtained, and includes the executors, administrators, successors and assigns of that person;

(*c*) "judgment debtor" means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given;

(*d*) "original court", in relation to a judgment, means the court by which the judgment was given;

(*e*) "registering court", in relation to a judgment, means the court in which the judgment is registered under this Act.

Powers of court, how exercised

(2) Subject to the rules of court, any of the powers conferred by this Act on a court may be exercised by a judge of the court. R.S.O. 1970, c. 402, s. 1.

Registration of judgment

2.—(1) Where a judgment has been given in a court in a reciprocating state, the judgment creditor may apply to any court in Ontario having jurisdiction over the subject-matter of the judgment in the place where the debtor resides, or, notwithstanding the subject-matter, to the Supreme Court at any time within six years after the date of the judgment to have the judgment registered in that court, and on any such application the court may, subject to this Act, order the judgment to be registered.

Notice of application to register

(2) Reasonable notice of the application shall be given to the judgment debtor in all cases in which he was not personally served with process in the original action and did not appear or defend or otherwise submit to the jurisdiction of the original court, but in all other cases the order may be made *ex parte*.

Registration of judgment

(3) The judgment may be registered by filing with the registrar or clerk of the registering court an exemplification or a certified copy of the judgment, together with the order for such registration, whereupon the judgment shall be entered as a judgment of the registering court. R.S.O. 1970, c. 402, s. 2.

Conditions of registration

3. No judgment shall be ordered to be registered under this Act if it is shown to the registering court that,

(*a*) the original court acted without jurisdiction; or

(*b*) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court; or

(*c*) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or

(*d*) the judgment was obtained by fraud; or

(*e*) an appeal is pending, or the judgment debtor is entitled and intends to appeal against the judgment; or

(*f*) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason would not have been entertained by the registering court; or

(*g*) the judgment debtor would have a good defence if an action were brought on the original judgment. R.S.O. 1970, c. 402, s. 3.

Effect of registration

4. Where a judgment is registered under this Act,

(*a*) the judgment is, as from the date of the registration, of the same force and effect and, subject to this Act, proceedings may be taken thereon as if it had been a judgment originally obtained or entered up in the registering court on the date of the registration; and

(*b*) the registering court has the same control and jurisdiction over the judgment as it has over judgments given by itself; and

(*c*) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original court, and of the application for registration, are recoverable in like manner as if they were sums payable under the judgment, such costs to be first taxed by the proper officer of the registering court, and his certificate thereof endorsed on the order for registration. R.S.O. 1970, c. 402, s. 4.

Notice of registration on *ex parte* order

5. In all cases in which registration is made upon an *ex parte* order, notice thereof shall be given to the judgment debtor within one month after the registration, and the notice shall be served in the manner provided by the practice of the registering court for service of writs of process, or of notice of proceedings, and no sale under the judgment of any property of the judgment debtor is valid if made prior to the expiration of the period fixed by section 6 or such further period as the court may order. R.S.O. 1970, c. 402, s. 5.

Setting aside *ex parte* order

6. In all cases in which registration is made upon an *ex parte* order, the registering court may on the application of the judgment debtor set aside the registration upon such terms as the court thinks fit, and such application shall be made within one month after the judgment debtor has notice of the registration, and the applicant is entitled to have the registration set aside upon any of the grounds mentioned in section 3. R.S.O. 1970, c. 402, s. 6.

Power to make rules of court

7. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules of court for regulating the practice and procedure, including costs, in respect of proceedings of any kind under this Act. R.S.O. 1970, c. 402, s. 7.

Application of Act

8. Where the Lieutenant Governor is satisfied that reciprocal provision has been or will be made by any other province or territory of Canada for the enforcement within that province or territory of judgments obtained in any superior, county or district court of Ontario, the Lieutenant Governor may direct that this Act applies to that province or territory, and thereupon this Act applies accordingly. R.S.O. 1970, c. 402, s. 8.

Effect of Act

9. Nothing in this Act deprives any judgment creditor of the right to bring an action for the recovery of the amount of his judgment instead of proceeding under this Act. R.S.O. 1970, c. 402, s. 9.

(NOTE.—*As of December 31, 1980, this Act applied to Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island, Saskatchewan, the Northwest Territories and the Yukon Territory.)*

CHAPTER 433

Reciprocal Enforcement of Maintenance Orders Act

Interpretation

1. In this Act,

(*a*) "certified copy", in relation to an order of a court, means a copy of the order certified by the proper officer of the court to be a true copy;

(*b*) "court" means an authority having statutory jurisdiction to make maintenance orders;

(*c*) "maintenance order" means an order or certificate of a court for the periodical payment of money as alimony or as maintenance;

(*d*) "Minister" means the Attorney General;

(*e*) "reciprocating state" means a state declared under section 15 to be a reciprocating state. R.S.O. 1970, c. 403, s. 1; 1972, c. 1, s. 9 (7).

Registration in Ontario of orders made elsewhere

2.—(1) Where a maintenance order has been made against a person by a court in a reciprocating state and a certified copy of the order has been transmitted by the proper officer of the reciprocating state to the Minister, the Minister shall send a certified copy of the order for registration to the proper officer of such court in Ontario as is determined by the Minister, and on receipt thereof the order shall be registered.

Effect of registration

(2) An order registered under subsection (1) has from the date of its registration the same force and effect and, subject to this Act, all proceedings may be taken thereon as if it had been an order originally obtained in the court in which it was so registered and that court has power to enforce the order and its officers shall take all proper steps so to do. R.S.O. 1970, c. 403, s. 2 (1, 2).

Filing of orders in provincial court (family division)

(3) A copy of an order registered in the Supreme Court under subsection (1) may be filed in the provincial court (family division) having jurisdiction where the person ordered to pay the alimony or maintenance resides and, when so filed, it shall be enforced in the same manner as an order made in that court under Part II of the *Family Law Reform Act*. R.S.O. 1970, c. 403, s. 2 (3); 1978, c. 2, s. 87 (2).

R.S.O. 1980, c. 152

Conversion to Canadian currency

(4) A maintenance order that makes payable sums of money expressed in a currency other than the currency of Canada shall not be registered under subsection (1) until the court in which it is sought to be registered, or, where that court is the Supreme Court, the registrar of that court, has determined the equivalent of the sums so payable in the currency of Canada on the basis of the rate of exchange prevailing on the date on which the order was made as ascertained from any branch of any chartered bank, and the court or the registrar, as the case may be, shall certify on the order the sums so determined expressed in the currency of Canada, and the order when registered shall be deemed to be an order for the payment of the sums so certified. R.S.O. 1970, c. 403, s. 2 (4).

Transmission of orders made in Ontario

3. Where a court in Ontario has made a maintenance order and it is proved to the court in Ontario that the person against whom the order was made is resident in a reciprocating state, the court in Ontario shall, on the request of the person in whose favour the order was made, send a certified copy of the order to the Minister for transmission to the proper officer of the reciprocating state. R.S.O. 1970, c. 403, s. 3.

Provisional order against person residing outside Ontario

4.—(1) Where an application is made to a court in Ontario for a maintenance order and it is proved to the court in Ontario that the person against whom the order was made is resident in a reciprocating state, the court in Ontario may, in the absence of that person and without service of notice on him, if after hearing the evidence it is satisfied of the justice of the application, make any maintenance order that it might have made if a notice of application had been duly served on that person and he had failed to appear at the hearing, but an order so made is provisional only and has no effect until it is confirmed by a court in the reciprocating state. R.S.O. 1970, c. 403, s. 4 (1); 1978, c. 2, s. 87 (1).

Depositions and transcripts

(2) Where the evidence of a witness who is examined on an application mentioned in subsection (1) is not taken in shorthand, the evidence shall be put into the form of a deposition and the deposition shall be read over and signed by the witness and the person presiding at the hearing. R.S.O. 1970, c. 403, s. 4 (2).

Preparation of statements and transmission of documents to Minister

(3) Where a provisional order has been made under subsection (1),

(*a*) the court shall prepare,

(i) a statement showing the grounds on which the making of the order might have been opposed if the person against whom the order

was made had been duly served with a notice of application and had appeared at the hearing, and

(ii) a statement showing the information that the court possesses for facilitating the identification of the person against whom the order was made and ascertaining his whereabouts; and

(*b*) the court shall send to the Minister for transmission to the proper officer of the reciprocating state,

(i) a certified copy of the order,

(ii) the depositions or a certified copy of the transcript of the evidence, and

(iii) the statements referred to in clause (*a*). R.S.O. 1970, c. 403, s. 4 (3); 1978, c. 2, s. 87 (1).

Power to take new evidence on renvoy

(4) Where a provisional order made under this section has come before a court in a reciprocating state for confirmation and the order has by that court been remitted to the court in Ontario that made the order for the purpose of taking further evidence, the court in Ontario shall, after giving the notice prescribed by the rules, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

Further powers on renvoy

(5) Where upon the hearing of the evidence taken under subsection (4) it appears to the court in Ontario that the order ought not to have been made, the court in Ontario may rescind the order, but in any other case the depositions or a certified copy of the transcript of the evidence shall be sent to the Minister and dealt with in like manner as the depositions or transcript of the original evidence.

Power of original court to vary or rescind

(6) The confirmation of a provisional order made under this section does not affect any power of the court in Ontario that originally made the order to vary or rescind the order, but an order varying an original order has no effect until it is confirmed in like manner as the original order.

Transmission of varying or rescinding order

(7) Where, after a provisional order made under this section is confirmed, the court in Ontario that originally made the order makes a varying or rescinding order, that court shall send a certified copy thereof, together with the depositions or a certified copy of the transcript of any new evidence adduced before the court, to the Minister for transmission to the proper officer of the reciprocating state in which the original order was confirmed. R.S.O. 1970, c. 403, s. 4 (4-7).

Right of appeal

(8) An applicant for a provisional order under this section has the same right of appeal, if any, against a refusal to make the order as he would have had against a refusal to make a maintenance order if a notice of application had been duly served on the person against whom the order is sought to be made. R.S.O. 1970, c. 403, s. 4 (8); 1978, c. 2, s. 87 (1).

Confirmation of orders made outside Ontario

5.—(1) Where,

(*a*) a maintenance order has been made by a court in a reciprocating state and the order is provisional only and has no effect until confirmed by a court in Ontario; and

(*b*) a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed if the person against whom the order was made had been a party to the proceedings, is received by the Minister; and

(*c*) it appears to the Minister that the person against whom the order was made is resident in Ontario,

the Minister may send the documents to the proper officer of such court in Ontario as is determined by the Minister, and upon receipt of the documents the court shall issue a notice of application calling upon the person against whom the order was made to show cause why the order should not be confirmed, and cause it to be served upon such person. R.S.O. 1970, c. 403, s. 5 (1); 1978, c. 2, s. 87 (1).

Right of defence on application for confirmation

(2) At a hearing under this section, the person on whom the notice of application was served may raise any defence that he might have raised in the original proceedings if he had been a party thereto, but no other defence, and the statement from the court that made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings is conclusive evidence that those grounds are grounds on which objection may be taken. R.S.O. 1970, c. 403, s. 5 (2); 1978, c. 2, s. 87 (1).

Power to confirm with or without modification

(3) Where, at a hearing under this section, the person who was served with the notice of application does not appear or, having appeared, fails to satisfy the court in Ontario that the order ought not to be confirmed, the court in Ontario may confirm the order, either without modification or with such

modifications as the court, after hearing the evidence, considers just. R.S.O. 1970, c. 403, s. 5 (3); 1978, c. 2, s. 87 (1).

Power to remit to court that made provisional order

(4) Where the person against whom a notice of application was issued under this section appears at the hearing and satisfies the court in Ontario that, for the purpose of any defence, it is necessary to remit the case to the court in the reciprocating state that made the provisional order for the taking of further evidence, the court in Ontario may so remit the case and adjourn the proceedings for the purpose. R.S.O. 1970, c. 403, s. 5 (4); 1978, c. 2, s. 87 (1).

Variation or rescission of order that has been confirmed

(5) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the court in Ontario that confirmed it and, where on an application for variation or rescission the court in Ontario is satisfied that it is necessary to remit the case to the court in the reciprocating state that made the order for the purpose of taking further evidence, the court in Ontario may so remit the case and adjourn the proceedings for the purpose.

Right of appeal

(6) Where an order has been confirmed under this section, the person bound thereby has the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order if the order had been made by the court in Ontario that confirmed the order.

Effect of confirmation

(7) An order confirmed under this section has from the date of its confirmation the same force and effect and, subject to this Act, all proceedings may be taken thereon as if it had been an order originally obtained in the court in Ontario in which it was so confirmed and that court has power to enforce the order and its officers shall take all proper steps so to do.

Conversion to Canadian currency

(8) Where a provisional order sought to be confirmed under this section makes payable sums of money expressed in a currency other than the currency of Canada, the confirming court, or, where that court is the Supreme Court, the registrar of that court, shall determine the equivalent of the sums so payable in the currency of Canada on the basis of the rate of exchange prevailing on the date on which the provisional order was made as ascertained from any branch of any chartered bank, and the confirming court or the registrar, as the case may be, shall certify on the order when confirmed the sums so determined expressed in the currency of Canada, and the order when confirmed shall be deemed to be an order for the payment of the sums so certified.

Right of appeal where provisional order not confirmed

(9) Where a court in Ontario to which a provisional order made by a court in a reciprocating state has been sent for confirmation refuses to confirm it, or, after confirming it, varies or rescinds it, the person in whose favour it was made has the same right of appeal, if any, against the refusal, variation or rescission as that person would have had if the original application had been made in the same court in Ontario and it had been dismissed. R.S.O. 1970, c. 403, s. 5 (5-9).

Where maintenance ancillary to larger question

6. Where an order or judgment made by a court in a reciprocating state includes provision for maintenance in the determination of any other question, the court in Ontario may, in its discretion,

(*a*) deem the provision for maintenance to be severed from any other question determined by the order or judgment; and

(*b*) deem the provision for maintenance to be a provisional order for maintenance and deal with the order under section 5. R.S.O. 1970, c. 403, s. 6.

Transmission of document by Minister to reciprocating state

7. Where under this Act a document is sent to the Minister for transmission to the proper officer of a reciprocating state, the Minister shall transmit the document accordingly. R.S.O. 1970, c. 403, s. 7.

Determination of court by Minister

8. The determination of a court by the Minister does not prevent him from determining another court with respect to the same order. R.S.O. 1970, c. 403, s. 8.

Forms, rules of practice

9. The Lieutenant Governor in Council may prescribe forms and make rules prescribing the practice and procedure, including costs, under this Act. R.S.O. 1970, c. 403, s. 9.

Proof of documents signed by officer of court

10. A document purporting to be signed by a judge or officer of a court in a reciprocating state shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document. R.S.O. 1970, c. 403, s. 10.

Depositions, etc., to be evidence

11. Depositions or transcripts of evidence taken in a court in a reciprocating state for the purposes of this Act may be received in evidence in the courts in Ontario. R.S.O. 1970, c. 403, s. 11.

Language

12. Where a maintenance order sought to be registered in a court in Ontario or a provisional order sought to be confirmed by a court in Ontario under this Act or any accompanying document is in a language other than the English language, the certified copy of the maintenance order or the provisional order, as the case may be, and any accompanying document shall have attached a translation in the English language certified as being a true translation by the court in the reciprocating state that made the order, in which case the order and any accompanying document shall be deemed to be in the English language. R.S.O. 1970, c. 403, s. 12.

Terminology

13. Where a maintenance order sought to be registered in a court in Ontario or a provisional order sought to be confirmed by a court in Ontario under this Act or any accompanying document uses terminology different from the terminology used in Ontario, the difference shall not vitiate any proceedings under this Act. R.S.O. 1970, c. 403, s. 13.

Saving

14. Nothing in this Act deprives a person of the right to obtain a maintenance order instead of proceeding under this Act. R.S.O. 1970, c. 403, s. 14.

Designation of reciprocating states

15. Where the Lieutenant Governor in Council is satisfied that reciprocal provisions will be made by a state in or outside Canada for the enforcement in that state of maintenance orders made in Ontario, the Lieutenant Governor in Council may by order declare that state to be a reciprocating state for the purposes of this Act. R.S.O. 1970, c. 403, s. 15.

NOTE.—*As of December 31st, 1980, the following are declared to be reciprocating states for the purposes of this Act*:

1. The following Provinces and Territories of Canada:

i. Alberta

ii. British Columbia

iii. Manitoba

iv. New Brunswick

v. Newfoundland

vi. Northwest Territories

vii. Nova Scotia

viii. Prince Edward Island

ix. Quebec

x. Saskatchewan

xi. Yukon

2. The following States of the United States of America:

i. Arkansas
ii. Arizona
iii. California
iv. Colorado
v. Delaware
vi. Georgia
vii. Louisiana
viii. Maryland
ix. Massachusetts
x. Michigan
xi. Minnesota
xii. Montana
xiii. Nebraska
xiv. New Mexico
xv. Nevada
xvi. New York
xvii. North Dakota
xviii. North Carolina
xix. Ohio
xx. Oregon
xxi. Pennsylvania
xxii. South Dakota
xxiii. Texas
xxiv. Virginia
xxv. Washington
xxvi. Wisconsin

3. The following States and Territories of Australia:

i. Capital Territory of Australia
ii. New South Wales
iii. Northern Territory of Australia
iv. Queensland
v. South Australia
vi. Tasmania
vii. Victoria
viii. Western Australia

4. Fiji

5. Gibraltar

6. Guernsey, Alderney and Sark

7. Isle of Man

8. Malta and its Dependencies

9. New Zealand and the Cook Islands
10. Papua and New Guinea
11. Republic of Ghana
12. Southern Rhodesia (Zimbabwe)
13. States of Jersey
14. Union of South Africa
15. United Kingdom

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